This guide was researched and written by Garrigues on behalf of INVEST IN SPAIN.

This guide is correct to the best of our knowledge and belief at the date mentioned below. It is, however, written as a general guide so it is necessary that specific professional advice be sought before any action is taken.

Madrid, March 2015

Esta guía es correcta, a nuestro leal saber y entender, en la fecha abajo señalada. No obstante, ha sido redactada como guía general, por lo que es necesario solicitar asesoramiento profesional específico antes de emprender ninguna acción.

Madrid, marzo 2015
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Spain is in an outstanding position worldwide in terms of the importance of its economy: the 13th largest economy in the world by GDP, the 11th largest receiver of foreign direct investment (FDI), the 11th largest issuer of FDI and the 9th largest exporter of commercial services.

Spain has a modern economy based on knowledge, in which services represent almost 75% of business activity. It is an international center for innovation that benefits from a young and highly qualified population of a proactive nature, and competitive costs in the context of Western Europe, especially as regards graduate and post-graduate employees.

The country has worked hard to equip itself with state-of-the-art infrastructures capable of fostering the future growth of the economy. And this has been done alongside a major commitment to R&D.

There are interesting business opportunities for foreign investors in Spain in high value-added and strategic fields such as the ICT, renewable energy, biotechnology, environment, aerospace and automotive sectors, because of the attractive competitive environment.

In addition, companies that set up business in Spain can gain access not only to the Spanish national market, an attractively large market (more than 46 million consumers) with a high purchasing power, but also to the markets of the EMEA region (Europe, Middle East and North Africa), and Latin America, given its privileged geostrategic position, prestige and the strong presence of Spanish companies in these regions.

The main characteristics of our country are described in this chapter: demographics, political and territorial structure, economy and the foreign trade sector.
Guide to business in Spain

Spain: an attractive profile

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1. Introduction

1. INTRODUCTION

Spain is one of the most significant economies in the world: 13\textsuperscript{th} in terms of size and an attractive destination for foreign investment, making Spain the 11\textsuperscript{th} largest recipient of FDI worldwide\textsuperscript{1}. Spain’s appeal for investment lies not only in its domestic market, but also in the possibility of operating with third markets from Spain. This is because Spain has a privileged geo-strategic position within the European Union giving access to almost 1,900 million potential clients in the EMEA Region (Europe, Middle East and Africa). Its strong economic, historic and cultural ties also make Spain the perfect business gateway to Latin America.

Furthermore, Spain is a modern knowledge-based economy with services accounting for 74.35\textsuperscript{2} of economic activity. The country has become a center of innovation supported by a young, highly-qualified work force and competitive costs in the context of Western Europe.

This chapter gives a brief description of Spain’s vital statistics: its population, its political and territorial structure and its economy.

\textsuperscript{1} In terms of stock, according to the “World Investment Report 2014” (2013 figures).
\textsuperscript{2} National Statistic Institute. Data up to third quarter of 2014.
2. The country, its people and quality of life

2. THE COUNTRY, ITS PEOPLE AND QUALITY OF LIFE

2.1. Geography, climate and living conditions

The Kingdom of Spain occupies an area of 504,782 square kilometers in the southwest of Europe, and is the second largest country in the EU. The territory of Spain covers most of the Iberian Peninsula, which it shares with Portugal, and also includes the Balearic Islands in the Mediterranean Sea, the Canary Islands in the Atlantic Ocean, the North African cities of Ceuta and Melilla and several small islands.

Despite differences among the various regions of Spain, the country can be said to have a typical Mediterranean climate. The weather in the northern coastal region (looking onto the Atlantic and the Bay of Biscay) is mild and generally rainy throughout the year, with temperatures neither very low in the winter nor very high in the summer. The climate on the Mediterranean coastline, including the Balearic Islands, Ceuta and Melilla, is mild in the winter and hot and dry in the summer. The most extreme differences occur in the interior of the Peninsula, where the climate is dry, with cold winters and hot summers. The Canary Islands have a climate of their own, with temperatures constantly around 20 degrees Celsius and only minor variations in temperature between seasons or between day and night.

Spain has an excellent quality of life and is very open to foreigners. Almost 8,000 kilometers of coastline, abundant sporting facilities and events and social opportunities are crowned by the diversity of the country’s cultural heritage as a crossroads of civilizations (Celts, Romans, Visigoths, Arabs, Jews, etc.).
2. The country, its people and quality of life

2.2. Population and human resources

The population of Spain in 2014 was 46.8 million people, with a population density of more than 92 inhabitants per square kilometer.

Spain is a markedly urban society (see Table 1), as evidenced by the fact that 32% of the population lives in provincial capitals.

<table>
<thead>
<tr>
<th>THE BIGGEST CITIES IN SPAIN*</th>
</tr>
</thead>
<tbody>
<tr>
<td>POPULATION</td>
</tr>
<tr>
<td>Madrid</td>
</tr>
<tr>
<td>Barcelona</td>
</tr>
<tr>
<td>Valencia</td>
</tr>
<tr>
<td>Seville</td>
</tr>
<tr>
<td>Zaragoza</td>
</tr>
<tr>
<td>Málaga</td>
</tr>
<tr>
<td>Murcia</td>
</tr>
<tr>
<td>Palma de Mallorca</td>
</tr>
<tr>
<td>Las Palmas de Gran Canaria</td>
</tr>
<tr>
<td>Bilbao</td>
</tr>
</tbody>
</table>

* Figures refer only to the municipal districts of each city.


Spanish is the official language of the country. There are other Spanish languages that are also official in the corresponding Autonomous Communities (regions), according to their “Statutes of Autonomy”. Education is compulsory until the age of 16 and English is the main foreign language studied at school.

Spain has a labor force of 23.03 million people according to the Labor Force Survey (released in the fourth quarter of 2014). Compared with other OECD countries, Spain’s population is relatively young: 16% is under 16 years old, 66% is between 16 and 64 years old, and only 18% is 65 and over, according to 2014 figures. Additionally, as seen in Table 2 below, Spain has been receiving a significant inflow of immigrants in recent years that have offset the consequences of an aging population.
Spain’s labor force structure by economic sector underwent significant changes sometime ago, with there was an increase in the active population in the services sector and a decrease in the number of workers employed in farming and industry. Today, the services sector is by far Spain’s main employer (Chart 1 and Table 3).

The labor force is highly qualified and capable of adapting to technological changes.

Lastly, in keeping with the commitment entered into with the European Union to promote job creation, the Spanish government has implemented significant reforms to the job market in recent years, introducing a greater degree of flexibility in employment.

Like our neighboring countries, and as a result of the recent global economic crisis and the changing economy, which has moved away from labor-intensive sectors towards highly technological sectors, the unemployment rate in Spain has also increased. This led to the start in 2012 of an ambitious program of structural reform with a view to boosting growth and creating jobs, coupled with related fiscal consolidation measures.

In the labor market, Law 3/2012, of July 6, 2012, on Urgent Measures to Reform the Labor Market was approved, with a view to guaranteeing employer flexibility in the management of human resources as well as job security and adequate levels of social protection.

Regulatory changes were also made in 2013 to encourage more flexible use of part-time contracts and Law 14/2013, of September 27, 2013, on support to entrepreneurs and their internationalization was approved, introducing new procedures to facilitate entry, stay and residence in Spain for reasons of economic interest.

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### Table 2

<table>
<thead>
<tr>
<th>Continents of Origin</th>
<th>2012</th>
<th>2013</th>
<th>2014*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Europe</td>
<td>2,385,193</td>
<td>2,473,385</td>
<td>2,512,094</td>
</tr>
<tr>
<td>America</td>
<td>1,503,728</td>
<td>1,050,485</td>
<td>980,096</td>
</tr>
<tr>
<td>Asia</td>
<td>371,109</td>
<td>370,946</td>
<td>376,361</td>
</tr>
<tr>
<td>Africa</td>
<td>1,148,818</td>
<td>1,045,885</td>
<td>1,033,929</td>
</tr>
<tr>
<td>Oceania</td>
<td>1,895</td>
<td>1,878</td>
<td>1,926</td>
</tr>
<tr>
<td>Unknown</td>
<td>1,180</td>
<td>1,048</td>
<td>1,089</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>5,411,923</strong></td>
<td><strong>4,943,627</strong></td>
<td><strong>4,905,495</strong></td>
</tr>
</tbody>
</table>

Source: Ministry of Employment and Social Security.

* Data at June 30, 2014.

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2. The country, its people and quality of life

The new 2014-2016 Spanish Employment Activation Strategy provides a multiyear framework for the programming and coordination of active employment policies, notably including policies: (i) to improve the employability of young people; (ii) concerning groups particularly affected by unemployment and to improve the quality of vocational training for employment.

**Chart 1**
LABOR FORCE STRUCTURE BY ECONOMIC SECTOR IN 2014


**Table 3**
EVOLUTION OF LABOR FORCE STRUCTURE BY ECONOMIC SECTOR (PERCENTAGE)

<table>
<thead>
<tr>
<th></th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>4.6</td>
<td>4.7</td>
<td>4.1</td>
</tr>
<tr>
<td>Industry</td>
<td>14.1</td>
<td>13.6</td>
<td>13.9</td>
</tr>
<tr>
<td>Construction</td>
<td>6.3</td>
<td>5.8</td>
<td>5.9</td>
</tr>
<tr>
<td>Services</td>
<td>75.0</td>
<td>75.9</td>
<td>76.1</td>
</tr>
</tbody>
</table>

2. The country, its people and quality of life

2.3. Political institutions

Spain is a parliamentary monarchy. The King is the Head of State\(^4\) and his primary mission is to arbitrate and moderate the correct functioning of the country’s institutions in accordance with the Constitution. He also formally ratifies the appointment or designation of the highest holders of public office in the legislative, executive and judicial branches\(^5\).

The Constitution of 1978 enshrined the fundamental civil rights and public freedoms as well as assigning legislative power to the *Cortes Generales* (Parliament)\(^6\), executive power to the Government of the nation, and judicial powers to independent judges and magistrates.

The responsibility for enacting laws is entrusted to the *Cortes Generales*, comprising the *Congreso de los Diputados* (Lower House of Parliament) and the *Senado* (Senate), the members of which are elected by universal suffrage every four years.

The *Cortes Generales* exercise the legislative power of the nation, approve the annual State budgets, control the actions of the Government and ratify international treaties.

The Government\(^7\) is headed by the *Presidente del Gobierno* (President of the Government) who is elected by the *Cortes Generales* and is, in turn, in charge of electing the members of the *Consejo de Ministros* (Council of Ministers).

The members of the Council of Ministers are appointed and removed by the President of the Government at his or her discretion.

For administrative purposes, Spain is organized into 17 Autonomous Communities (Regions) each of which generally comprises one or more provinces, plus the Autonomous Cities of Ceuta and Melilla in Northern Africa and the total number of provinces is 50.

Each Autonomous Community (Region) exercises the powers assigned to it by the Constitution as specified in its “Statute of Autonomy”. These Statutes also stipulate the institutional organization of the Community concerned, consisting generally of: a legislative assembly elected by universal suffrage, which enacts legislation applicable in the Community; a Government with executive and administrative functions, headed by a President elected by the Assembly, who is the Community’s highest representative; and a Superior Court of Justice, in which judicial power in the Community’s territory is vested. A Delegate appointed by the Central Government directs the Administration of the State in the Autonomous Community (Region), and co-ordinates it with the Community’s administration.

The Autonomous Communities (Regions) are financially autonomous and also receive allocations from the general State budgets.

As a result of the structure described above Spain has become one of the most decentralized countries in Europe.

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\(^4\) [http://www.casareal.es/ES/Paginas/home.aspx](http://www.casareal.es/ES/Paginas/home.aspx)
\(^5\) [http://www.poderjudicial.es/cgpj/?Template=default](http://www.poderjudicial.es/cgpj/?Template=default)
\(^6\) [http://www.congreso.es/portal/page/portal/Congreso/Congreso](http://www.congreso.es/portal/page/portal/Congreso/Congreso)
\(^7\) [http://www.lamoncloa.gob.es/Paginas/index.aspx](http://www.lamoncloa.gob.es/Paginas/index.aspx)
3. Spain and the European Union

3. SPAIN AND THE EUROPEAN UNION

Spain became a full member of the European Economic Community in 1986. In this connection and according to figures published by the European Commission, Spain fully complies with the objectives established by the European Council.

A major impact of European Union membership for Spain, and for the other Member States, came in the mid-nineties with the advent of the European Single Market and the European Economic Area, which created a genuine barrier-free trading space.

Since then, the EU has advanced significantly in the process of unification by strengthening the political and social ties among its citizens. Spain, throughout this process, has always stood out as one of the leaders in the implementation of liberalization measures.

Since July 1, 2013, with the addition of Croatia, the European Union now has 28 Member States.

With the aim of strengthening democracy, efficiency and transparency within the EU and, in turn, its ability to meet global challenges such as climate change, security, and sustainable development, on December 13, 2007, the then 27 EU Member States signed the Treaty of Lisbon, which entered into force —subject to prior ratification by each of the 27 Member States— on December 1, 2009. The European Parliament elections took place between June 4 and 7 of that year.

Spain holds significant responsibilities within the EU, evidenced by the fact that it is, along with Poland, the fifth country in terms of voting power on the Council of Ministers. In 2010, Spain assumed the Council Presidency of the European Union for the fourth time, for the period from January to June.

The introduction of the Euro (on January 1, 2002) heralded the start of the third Spanish presidency of the European Council and represented the culmination of a long process and the creation of a veritable array of opportunities for growth for Spanish and European markets. Since January 1, 2015, with the addition of Lithuania, Eurozone membership now stands at nineteen.

The euro has led to the creation of a single currency area within the EU that makes up the world’s largest business area, bringing about the integration of the financial markets and economic policies of the area’s member states, strengthening ties between the member states’ tax systems and bolstering the stability of the European Union.

Furthermore, the adoption of a single European currency has had a clear impact at an international level, raising the profile of the Eurozone at both international and financial gatherings (G-7 meetings) and within multilateral organizations. The economic and business stability offered by the euro have contributed to the growth of the Spanish economy, as well as its international political standing. In addition, measures are being implemented to strengthen the European economy; for example, the

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8 http://europa.eu/about-eu/countries/member_countries/index_es.htm
9 http://europa.eu/lisbon_treaty/index_en.htm
http://europa.eu/about-eu/eu-history/index_es.htm
3. Spain and the European Union

Euro-Plus Pact designed to consolidate the coordination of the economic policy in the Economic and Monetary Union, and an EU multiannual spending plan (2014-2020) to stimulate growth. Spain remains committed to structural reforms under the Europe 2020 Strategy and the Compact for Growth and Jobs which will boost economic growth, investment and employment, based on a more competitive European Union.

Spain has traditionally benefitted from EU funding from the Structural Funds and the Cohesion Fund and is the third largest recipient of funding from the Structural Funds and the Cohesion Fund. It is estimated that between 2014 and 2020 European funding from the ERDF and financing for Trans-European Transport Networks (through the Connecting Europe Facility) will make a positive contribution of an estimated €2.5 billion to certain regions and priority areas.

European institutions are tasked with encouraging and supporting technological research and development. Horizon 2020 is the EU Framework Program for Research and Innovation for the period 2014-2020 (with funding of €76.880 billion) which will directly tackle the main societal challenges set out in Europe 2020 and contribute to its flagship initiatives. It will also boost industrial leadership in Europe and strengthen the excellence of its science base, which is essential to the sustainability, prosperity and wellbeing of Europe in the long term.

In this respect, the 2011 Science Law, in keeping with the Europe 2020 Strategy, contributed measures to the current framework (e.g., implementation in the autonomous communities, increasing European dimension, qualitative and quantitative increase in public resources, consolidation of a professionalized and competitive scientific and technical, community open to the world, and transition towards an economy based on knowledge and innovation).

The promotion and fostering of excellence and the strengthening of scientific research institutes constitutes one of the cornerstones of the actions of, and definition of scientific policy by, the Office of the Secretary of State for Research, Development and Innovation, as reflected in the 2013-2020 Spanish Science, Technology and Innovation Strategy and the 2013-2016 State Plan for Scientific and Technical Research.

The State Plan has a clearly international focus, given its structure and strict alignment with the R&D&I targets established in Horizon 2020.
4. Infrastructure

4. INFRASTRUCTURE

The Government intends to continue with its program of heavy investment in this area in the future.

A new Infrastructure, Transport and Housing Plan (PITVI) is expected to be approved which, based on an analysis of the current situation and a rigorous assessment of Spanish needs, will establish the priorities and action plans up to 2024.

The Plan’s objectives notably include: (i) enhancing the efficiency and competitiveness of the global transport system, optimizing the existing capacity; (ii) contributing to balanced economic development; (iii) promoting sustainable mobility, combining its economic and social effects with respect for the environment; (iv) reinforcing territorial cohesion and accessibility to all State territories through the transport system; and (v) improving the functional integration of the transport system as a whole by taking an intermodal approach.

The motorway and dual carriageway network, of nearly 14,981 kilometers, has undergone constant renovation with a view to enhancing its efficiency and Spain is currently leads Europe in terms of kilometers of this type of roads. The improvement of the motorway and dual carriageway network, the construction of more than 3,500 kilometers of high-capacity roads, with investment of €18,668 million, and a further €6,200 million earmarked for improvements to the conventional road network are among the objectives of the plan.

Spain is ranked thirteenth\(^\text{10}\) out of 148 countries in terms of road infrastructure.

As far as railway transport is concerned (where Spain has a network of almost 19,285 kilometers), high-speed networks have become a priority.

Madrid currently has high-speed train connections to 26 Spanish cities, with plans to inaugurate new lines in 2015, bringing high-speed rail to 17 new cities. The Barcelona-Paris line has also enabled a high-speed rail connection between the Spanish and French capitals, with a connection to the French border via Vitoria and Irún (the Basque Country) to be added shortly. In recent years, Spain has become a global high-speed rail pioneer, having multiplied the kilometers of high-speed lines in service more than five-fold, from just over 550 kilometers to more than 3,100 kilometers, with over 1,000 kilometers of new railway lines to be opened in 2015. Indeed, since its inception, approximately €45,120 million has been invested in the high-speed rail network, making a commitment to ensuring that 9 out of every 10 citizens live less than 30 kilometers away from a high-speed rail station. Spain has thus become the leading country in Europe and the second worldwide, after China, in terms of the number of kilometers of high-speed lines in operation, outperforming countries such as France and Japan.

Also noteworthy is the important network of relations with managers of railroad infrastructure in other countries, established as a result of signing cooperation protocols. In the context of these agreements representatives from a range of countries, such as the US and Brazil, have visited Spain

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\(^\text{10}\) Global Competitiveness Report 2013-14 by the World Economic Forum.
4. Infrastructure

to learn about its high-speed model. Spanish companies have participated in the construction of rail infrastructure and equipment in countries such as Turkey, Morocco, Mexico, Russia, Poland and Colombia, and in the construction of the high-speed line connecting Medina and Mecca in Saudi Arabia.

A process for the deregulation of rail passenger transport is currently underway, having commenced with the deregulation of rail transport for tourism purposes.

Finally, the freight sector liberalization since 2005, has led to the creation of private enterprises that transport goods by railroad. The Spanish Government plans to approve a series of measures to promote this type of transport.

Air transport links the main Spanish cities via Spain’s 46 airports, which also connect Spain to the world’s leading cities. Spain is a major hub for routes linking the Americas and Africa to Europe. The most significant investments in the pipeline are aimed at the two principal international airports in Madrid and Barcelona. With the inauguration of Terminal 4 in February 2006, Madrid airport saw its capacity increase to 70 million passengers per year, making Spain the third-largest country in Europe and fifth worldwide in terms of air transport.

Furthermore, with over 46 international ports on the Atlantic and Mediterranean coasts, Spain boasts excellent maritime transport links. The reinforcement of short-distance maritime transport, both domestic and European, and the development of seaside motorways are some other key initiatives. Moreover, the Seaside Motorway between Spain and France is now operation, linking Vigo with the French port of Nantes-Saint Nazaire. Spain plans to promote this type of link in the Mediterranean, through agreements with Italy and other countries, with a view to increasing the number of lines already on offer and operating with good results between the Spanish ports of Barcelona, Valencia, Castellón and Tarragona and the Italian ports of Genoa, Civitavecchia, Livorno, Cagliari and Salerno.

This will permit a more sustainable alternative in some of the main flows within the EU. In addition, with a view to improving the competitiveness of ports, in 2010 the Ports Law was amended to reduce restrictions on inter- and intra-port competition and boost the competitiveness of Spanish ports in the global economy.

As part of its plans for internationalization, the State Port Authority is promoting alliances with the major Chinese operators, and has entered into contact with the Hutchison facilities in Hong Kong and Shenzhen, in order to consolidate its position as a logistics platform in Southern Europe. Spain is ranked 3rd in Europe and 11th worldwide in terms of number of containers transported. Five major Spanish ports (Valencia, Algeciras, Barcelona, Las Palmas and Bilbao) are listed among top 125 ports worldwide, thereby confirming Spain’s strategic position in the global maritime transport industry.

Spain is well equipped in terms of technological and industrial infrastructure, having seen a boom in recent years in technological parks in the leading industrial areas, as well as around universities.
4. Infrastructure

and R&D centers. There are currently 68 technological parks\textsuperscript{11} housing over 6,286 companies, mainly engaged in the telecommunications and IT industries, in which a large number of workers are employed in R&D activities.

Spain also boasts a solid telecommunications network, with an extensive conventional fiber optic cable network (64,000 km) covering the country almost in its entirety, on top of one of the world’s largest undersea cable networks and satellite link-ups spanning the five continents. Particularly noteworthy is the significant deregulation set in place some years ago in the majority of industries, including the telecommunications industry, meeting the deadlines set for such purpose by the EU with ease. Among other advantages, this deregulation has meant a more competitive range of products on offer as reflected in costs, essential for economic development.

Also notable is Government backing for integral management of water resources, based on environmental management and recovery, more efficient use of water and planned management of risks such as droughts and flooding.

\textsuperscript{11} Members of the Association of Science and Technology Parks in Spain
http://www.apte.org/es
5. Economic structure

5. ECONOMIC STRUCTURE

The structure of the Spanish economy is that of a developed country, with the services sector being the main contributor to GDP, followed by industry. These two sectors represent 92% of Spain’s GDP with agriculture’s share today representing a 2.47% of GDP, having declined sharply as a result of the country’s economic growth (see Table 4).

Table 4

<table>
<thead>
<tr>
<th>Sector</th>
<th>2012</th>
<th>2013</th>
<th>2014*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture and fishery</td>
<td>2.44%</td>
<td>2.77%</td>
<td>2.47%</td>
</tr>
<tr>
<td>Industry</td>
<td>17.25%</td>
<td>17.59%</td>
<td>17.74%</td>
</tr>
<tr>
<td>Construction</td>
<td>6.27%</td>
<td>5.75%</td>
<td>5.44%</td>
</tr>
<tr>
<td>Services</td>
<td>74.04%</td>
<td>73.89%</td>
<td>74.35%</td>
</tr>
</tbody>
</table>

Source: National Statistic Institute.
* Data for third quarter of 2014

Throughout 2014, the Spanish economy continued the growth observed in the last two quarters of 2013. GDP rose 0.3% quarter-on-quarter in the first quarter of 2014 and strengthened to 0.5% and 0.7%\(^\text{12}\), respectively, in the last two quarters. Overall, GDP grew 1.4% in 2014, reflecting the recovery of the Spanish economy.

\(^\text{12}\) National Statistic Institute. Advancing data for fourth quarter of 2014.
Moreover, inflation in Spain has been falling slowly since the end of the 1980s. Average inflation between 1987 and 1992 was 5.8%; it dropped below 5% for the first time in 1993, and it has been shrinking gradually since then. The year-on-year inflation rate at December 2014 was -1.0%. This reduction is mainly due to falling fuel prices.

Table 5
GROWTH FOR OECD COUNTRIES (PERCENTAGES)

<table>
<thead>
<tr>
<th>Real GDP Growth</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>EU countries</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Germany</td>
<td>0.6</td>
<td>0.2</td>
<td>1.6</td>
</tr>
<tr>
<td>France</td>
<td>0.4</td>
<td>0.4</td>
<td>0.4</td>
</tr>
<tr>
<td>Italy</td>
<td>-2.3</td>
<td>-1.9</td>
<td>-0.4</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>0.3</td>
<td>1.8</td>
<td>2.6</td>
</tr>
<tr>
<td>Spain</td>
<td>-1.6</td>
<td>-1.2</td>
<td>1.4</td>
</tr>
<tr>
<td><strong>Other countries</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>United States</td>
<td>2.3</td>
<td>2.2</td>
<td>2.4</td>
</tr>
<tr>
<td>Japan</td>
<td>1.7</td>
<td>1.6</td>
<td>-0.0</td>
</tr>
<tr>
<td><strong>Total Euro Zone</strong></td>
<td>-0.7</td>
<td>-0.4</td>
<td>0.9</td>
</tr>
<tr>
<td><strong>Total OECD</strong></td>
<td>1.3</td>
<td>1.4</td>
<td>1.9</td>
</tr>
</tbody>
</table>

Source: Bank of Spain.
6. Domestoc market

6. DOMESTIC MARKET

Growth in the Spanish economy in recent times has been driven by a sharp increase in demand and a substantial expansion of production in the current context of globalization of the economy.

Today Spain has a domestic market of 46.8 million people with a per capita income in 2013 of €22,279 according to data from the National Statistics Institute, with additional demand coming from the record 65 million tourists who visited Spain in 2014, making Spain in the third most visited country worldwide. Links with Latin America and North Africa and the obvious advantages of using Spain as a gateway to those countries are significant factors.

Table 6 reflects the growth of production and demand components in the last year. The increased rate of growth of the Spanish economy has been mainly due to the consolidation of domestic demand offset by the drop in net foreign demand. The foreign demand trend stems from a slight drop in exports and from import growth bolstered by the strength of domestic demand.

Table 6
GROWTH OF PRODUCTION AND DEMAND COMPONENTS (PERCENTAGES)

<table>
<thead>
<tr>
<th>Production components</th>
<th>2013</th>
<th>2014*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture and fishery</td>
<td>15.6</td>
<td>8.4</td>
</tr>
<tr>
<td>Industry</td>
<td>-1.8</td>
<td>0.9</td>
</tr>
<tr>
<td>Construction</td>
<td>-8.1</td>
<td>-0.4</td>
</tr>
<tr>
<td>Services</td>
<td>-1.0</td>
<td>1.6</td>
</tr>
<tr>
<td><strong>Demand components</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Private consumption</td>
<td>-2.3</td>
<td>2.7</td>
</tr>
<tr>
<td>Public consumption</td>
<td>-2.9</td>
<td>0.9</td>
</tr>
<tr>
<td>Gross fixed capital formation</td>
<td>-3.8</td>
<td>3.1</td>
</tr>
<tr>
<td>Domestic demand</td>
<td>-2.7</td>
<td>2.6</td>
</tr>
<tr>
<td>Exports of goods and services</td>
<td>4.3</td>
<td>4.6</td>
</tr>
<tr>
<td>Imports of goods and services</td>
<td>-0.5</td>
<td>8.2</td>
</tr>
</tbody>
</table>

Source: Bank of Spain.
* Data up to third quarter of 2014.

7. Foreign trade and investment

7. FOREIGN TRADE AND INVESTMENT

Rapid growth in international trade and foreign investments in recent years has made Spain one of the most internationally-oriented countries in the world.

With regard to the trading of goods, Spain is ranked 18th in the world as an exporter and 17th as an importer; while in the trading of services it occupies 9th place as an exporter and 16th place as an importer.\(^{14}\)

Spanish exports and imports of goods account for 1.7% and 1.8%, respectively, of the worldwide total, while Spanish exports and imports of services represent 3.1% and 2.1% respectively.

The breakdown by industry of foreign trade is relatively diversified, as can be seen in the following table:

<table>
<thead>
<tr>
<th>Exports</th>
<th>Imports</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital goods</td>
<td>20.1%</td>
</tr>
<tr>
<td>Food</td>
<td>15.3%</td>
</tr>
<tr>
<td>Automobile industry</td>
<td>14.9%</td>
</tr>
<tr>
<td>Chemical products</td>
<td>14.2%</td>
</tr>
<tr>
<td>Semi-manufactured non-chemical products</td>
<td>10.7%</td>
</tr>
<tr>
<td>Consumer goods</td>
<td>9.3%</td>
</tr>
<tr>
<td>Energy products</td>
<td>7.3%</td>
</tr>
<tr>
<td>Other goods</td>
<td>4.4%</td>
</tr>
<tr>
<td>Raw materials</td>
<td>2.4%</td>
</tr>
<tr>
<td>Durable consumer goods</td>
<td>1.4%</td>
</tr>
</tbody>
</table>


As would be expected, the countries of the EU are Spain’s main trading partners. Accordingly, during 2014, Spanish exports to the European Union accounted for 63.7% of total exports and sales to the Eurozone represented 49.9% of the total. Imports from the European Union accounted for 53.2% of the total and those from the Eurozone represented 42.7%.

\(^{15}\) Annual data published by the Spanish Ministry of Economy and Competitiveness. January – November 2014 data.
7. Foreign trade and investment

Specifically, Spain’s leading trade partners are France and Germany. Outside the EU, Asia and Africa have displaced Latin America and North America from their traditional role as Spain’s main non EU trading partners.

The positive adaptation of Spanish companies to the new worldwide economic scenario, reflected mainly in the progressive diversification of the markets to which Spanish products and services are directed should also be underscored. Indeed, Spanish exports are to some extent being redirected from the EU to the rest of the world. In this regard, Spain’s share of exports to the EU dropped from 70.1% in 2007 to 63.7% in 2014 of total exports.

As regards investment, Spain is one of the main recipients of investment worldwide. According to the UNCTAD, in 2013 Spain was the 11th largest recipient of foreign direct investment worldwide, with $715,994 million and 5th in the EU. Moreover, Spain is also one of the main foreign direct investors in the world: $643,226 million in 2013, placing it as 11th largest investor worldwide.

With a view to making the Spanish economy more competitive and boosting the contribution made by foreign trade to growth and job creation, the Spanish government has approved the 2014-2015 Strategic Plan for the Internationalization of the Spanish Economy, which includes 41 measures and initiatives designed to promote the internationalization of the country’s economy and businesses.

Some of these measures are aimed at enabling Spanish businesses to access the financing required for their internationalization. Noteworthy among the financial instruments approved by the Spanish Government to provide official support for the internationalization of Spanish enterprise are the Foreign Investment Fund (FIEX), the Fund for Foreign Investment by Small and Medium-sized Enterprises (FONPYME) and the Enterprise Internationalization Fund (FIEM), as well as financing lines for investment in the electronics, information technology, communications and infrastructure concessions sectors, not to mention the 2014 ICO International Facility.

A summary of Spanish foreign trade, the balance of payments is set out below.

---

16 In terms of stock, according to the “World Investment Report 2014” by UNCTAD.
### 7. Foreign trade and investment

#### Table 8

**SPAIN’S BALANCE OF PAYMENTS (MILLIONS OF EUROS)**

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>2014*</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I. Current account</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Goods and services</td>
<td>35,731</td>
<td>22,919</td>
</tr>
<tr>
<td>Primary and secondary income</td>
<td>-20,650</td>
<td>-28,295</td>
</tr>
<tr>
<td><strong>II. Capital Account</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>6,884</td>
<td>3,805</td>
</tr>
<tr>
<td><strong>III. Financial Account</strong></td>
<td>40,583</td>
<td>13,541</td>
</tr>
<tr>
<td>Total (excluding Bank of Spain)</td>
<td>-73,599</td>
<td>6,152</td>
</tr>
<tr>
<td>Direct investment</td>
<td>-11,979</td>
<td>-5,071</td>
</tr>
<tr>
<td>Portfolio investment</td>
<td>-34,853</td>
<td>29,200</td>
</tr>
<tr>
<td>Other investment</td>
<td>-27,807</td>
<td>-17,947</td>
</tr>
<tr>
<td>Financial derivatives</td>
<td>1,039</td>
<td>-30</td>
</tr>
<tr>
<td>Bank of Spain</td>
<td>114,182</td>
<td>7,389</td>
</tr>
<tr>
<td>Reserves</td>
<td>535</td>
<td>190</td>
</tr>
<tr>
<td>Claims with the Eurosystem</td>
<td>123,660</td>
<td>12,215</td>
</tr>
<tr>
<td>Other net assets</td>
<td>-10,012</td>
<td>-5,016</td>
</tr>
<tr>
<td><strong>IV. Net errors &amp; omissions</strong></td>
<td>18,618</td>
<td>15,111</td>
</tr>
</tbody>
</table>

Source: Bank of Spain.

* Data January-October 2014.

**N.B.:** A positive sign in the current and capital accounts means a surplus (receipts greater than payments) and represents a net loan from Spain to the rest of the world (increase in assets or decrease in liabilities), whereas in the financial account a positive sign means a net inflow of capital and represents a net loan from the rest of the world to Spain. A negative sign in reserves means an increase.
8. Legislation on foreign investment and exchange control

8. LEGISLATION ON FOREIGN INVESTMENT AND EXCHANGE CONTROL

Although deregulation is the dominant feature in exchange control and foreign investment matters, there are certain reporting requirements.

As a general rule, foreign investments are only subject to reporting requirements once the investment has been made, while exchange control and capital movements are fully deregulated in Spain, there being complete freedom of action in this regard in all areas.

8.1. Legislation on foreign investment

Royal Decree 664/1999 deregulated practically all transactions of this kind (with the conditions and exceptions set forth below), adapting Spanish domestic law to the rules on the freedom of movement of capital contained in Articles 56 et seq. of the Treaty of the European Union.

The most noteworthy aspects of the regulations applicable to foreign investments are as follows:

• As a general rule, and for purely administrative, statistical or economic purposes, foreign investments must be reported afterwards to the Directorate-General for Trade and Investments, once the investment has been made. The only exceptions are: (i) investments from tax havens, which in general are subject to a prior administrative notification; and (ii) foreign investments in activities directly related to national security, and real estate investments for diplomatic missions by non-EU Member States, which require prior authorization by the Spanish Council of Ministers. There is no obligation for foreign investments to be formalized in the presence of a Spanish public certifying officer (unless an express provision provides otherwise).

• The parties subject to the obligation to report investments or divestments in transferable securities are not generally the investors, but rather the investment firms, credit institutions or other resident entities engaging, as the case may be, in any of the activities specific to the first two and acting at the risk and expense of the investor, as the interposed holder of such securities. Investors must report the investment only when the securities account or deposit is held at an institution domiciled abroad, where the securities are being kept by the holder of the investment; or where they acquire a holding of 3% or more in listed companies (the last case must be reported to the National Securities Market Commission).

• Foreign investments in the air transportation and radio industries, in industries relating to raw materials, minerals of strategic interest and mining rights, in the television, gaming, telecommunications and private security industries, in industries concerned with the manufacturing, marketing or distributing of arms and explosives and in national security-related activities (these latter activities are subject to the clearance rules), will be subject to the requirements imposed by the relevant bodies established by industry-specific legislation, although the general provisions may apply to them once those requirements are met.
8. Legislation on foreign investment and exchange control

8.1.1. Foreign investments. Characteristics

### Table 9

<table>
<thead>
<tr>
<th>FOREIGN INVESTMENTS</th>
</tr>
</thead>
</table>
| **Investors** | Non-resident individuals (that is, Spanish or foreign nationals domiciled abroad, or who have their principal place of residence abroad).  
Legal entities domiciled abroad.  
Public entities of foreign States. |

| Regulated investments\[17\]. Reporting obligations | Participation in Spanish companies, including their incorporation and subscription and acquisition of shares in joint-stock companies or in limited liability companies, and any legal transaction whereby voting rights are acquired.  
Establishment of, and increase of capital allocated to branches.  
Subscription and acquisition of marketable debt securities issued by residents (debentures, bonds, promissory notes).  
Participation in mutual funds recorded on the Registers of the Spanish National Securities Market Commission\[19\].  
Acquisition by non-residents of real estate located in Spain, valued at more than € 3,005,060, or where the investment originates from a tax haven, whatever its amount is.  
Incorporation, formalization or participation in joint ventures, foundations, economic interest groupings, cooperatives and joint-property entities, with the same characteristics as in the previous paragraph. |

| Parties subject to obligation | The investor.  
The Spanish public certifying officer who may have intervened in the transaction.  
However, investments in certain assets (securities, mutual funds, registered shares) may require that other individuals involved in the transaction report the investment (credit or financial institutions, deposit-taking or management companies of such assets, the Spanish company receiving the investment). |

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17 A Spanish company in which foreign shareholders have a majority holding is not deemed to be an investor. A change of registered office of legal entities or a change of residence of individuals will be sufficient to change the classification of an investment as a Spanish investment abroad or a foreign investment in Spain.  
18 Foreign investments not included in the above list (such as equity loans) are totally deregulated, and no communication is required in relation to them. The foregoing, notwithstanding any industry-specific regulations that may apply to such investments, and the rules on exchange control, with respect to such investments.  
19 \[http://www.cnmv.es/index.htm](http://www.cnmv.es/index.htm)
8. Legislation on foreign investment and exchange control

### Reporting rules

As a general rule, all foreign investments subject to disclosure, and the liquidation thereof, must be reported after the event to the Investments Register of the Ministry of Economy and Competitiveness. Investments from tax havens must be reported before and after the event. However, the following cases shall be excluded from the prior declaration:

- Investments in marketable debt securities issued or offered publicly, whether or not they are traded on an official secondary market, and units in mutual funds recorded on the Registers of the Spanish National Securities Market Commission.
- Where the foreign interest does not exceed 50% of the capital stock of the Spanish company in which the investment is made.

This prior disclosure obligation is not equivalent to a prior verification or authorization requirement and, once the investment has been disclosed, the investor may make its investment without having to wait for any reply from the authorities.

8.1.2. Monitoring of foreign investments

The Directorate-General for Trade and Investments (“DGCI”)\(^{20}\) can generally or specifically require Spanish companies which have foreign shareholders, and Spanish branches of non-resident persons, to file an annual report with it on the status of their foreign investments. The DGCI may also require the holders of investments to provide the information necessary in each particular case.

8.1.3. Suspension of the deregulation rules

The Spanish Council of Ministers can suspend the application of the deregulation rules in certain cases, which will require the investments concerned to undergo a prior procedure to obtain administrative clearance from the Council of Ministers.

At present, the Council of Ministers has only suspended the deregulation rules in respect of foreign investments in Spain in activities directly related to national security, such as the production or sale of arms, munitions, explosives and other armaments (except in the case of listed companies engaged in those activities, in which case clearance will only be required for acquisitions by non-residents that reach, exceed or fall below certain ownership thresholds, starting from 3% of the capital stock, or those acquisitions that without reaching such thresholds enable such investors to directly or indirectly form part of their managing bodies).

\(^{20}\) [www.comercio.gob.es/](http://www.comercio.gob.es/)
8. Legislation on foreign investment and exchange control

8.2. Exchange control regulations

Exchange control and capital movements are fully deregulated and in all areas there is complete freedom of action.

The basic regulation on exchange control is contained in Law 19/2003 on Capital Movements and Foreign Transactions and on Anti-Money Laundering, and in Royal Decree 1816/1991 on Economic Transactions Abroad, which uphold the principle of deregulation of capital movements.

8.2.1. The main features of the Spanish exchange control provisions currently in force can be summarized as follows

1. Freedom of action

   As a general rule, all acts, businesses, transactions and operations between residents and non-residents which involve or may involve payments abroad or receipts from abroad are completely deregulated. This includes payments or receipts (made either directly or by offset), transfers to or from abroad and changes in accounts or financial debit or credit positions abroad. It also covers the import and export of means of payment.

2. Safeguard clauses and exceptional measures

   EU rules may prohibit or restrict the performance of certain transactions, and the respective collections, payments, bank transfers or changes in accounts or financial positions, in respect of third countries.

   The Spanish government may also impose prohibitions or restrictions in respect of one state or of a group of states, a certain territory or an extra-territorial center, or suspend the deregulation system for certain acts, businesses, transactions or operations.

3. Types of bank accounts

   Non-resident individuals and legal entities can hold bank accounts on the same conditions as resident individuals and legal entities. The only requirement, on opening the bank account, is that they provide documentary evidence of the non-resident status of the account holder. Additionally, such status must be confirmed to the bank every two years. Other minor formalities are also stipulated.

   Moreover, residents may, subject to certain reporting requirements, freely open and hold bank accounts abroad either in euros or in foreign currency (when opened, they must be declared to the Bank of Spain), and foreign currency bank accounts in Spain at registered institutions (without being subject to any reporting requirement).
8. Legislation on foreign investment and exchange control

4. Residence for exchange control purposes

For exchange control purposes, individuals are deemed to be resident in Spain if they reside habitually in Spain. Legal entities with registered offices in Spain, and the establishments and branches in Spain of individuals or legal entities resident abroad, are likewise deemed resident in Spain for exchange control purposes.

Individuals whose habitual residence is abroad, legal entities with registered offices abroad, and permanent establishments and branches abroad of Spanish resident individuals or entities are deemed non-residents for exchange control purposes.

Habitual residence is defined in accordance with tax legislation, albeit with the adaptations established by regulations (which regulations are currently pending implementation).

8.3. Foreign transactions declarations with the Bank of Spain

For purely statistical and informative purposes the Circular 4/2012 of Bank of Spain, establishes that individuals or entities (public or private) resident in Spain that carry out transactions with non-residents or hold assets or liabilities abroad, must report them to the Bank of Spain21.

The frequency of the notifications will depend on the volume of transactions carried out by the subjects obliged to submit them in the immediately preceding year, and on the balance of assets and liabilities of these subjects at December 31 of the previous year, as follows:

- If the amount of the transactions during the immediately preceding year, or the balance of assets and liabilities at December 31 of the preceding year, is €300 million or more, the information shall be provided monthly, within the 20 days following the end of each calendar month.

- If the amount of the transactions during the immediately preceding year, or the balance of assets and liabilities at December 31 of the preceding year, is €100 million or more but less than €300 million, the information shall be provided quarterly, within the 20 days following the end of each calendar quarter.

- If the amount of the transactions during the immediately preceding year, or the balance of assets and liabilities at December 31 of the preceding year, is less than €100 million, the

21 Without prejudice to the fact that the parties subject to the obligation to report to Bank of Spain detailed here are individuals and entities resident in Spain, we considered it of interest to include this section, since what gives rise to these reporting obligations are precisely transactions with nonresidents and/or assets and liabilities held abroad or which the nonresident entity holds in Spain (in other words, both the real estate held abroad by a Spanish company and the real estate held in Spain by a nonresident entity must be declared).
8. Legislation on foreign investment and exchange control

information shall be provided annually, within the first 20 days of January of the following year.

- When the aforementioned amounts do not exceed €1 million, the return will only be submitted to the Bank of Spain at the express request thereof, and in a maximum period of two months following the date of that request.

However, residents that have not reached the reporting thresholds mentioned above, but that will cross them in the current year, will be required to file the corresponding declarations within the timeframe previously established from the moment at which the limits are exceeded.

Notwithstanding, when neither the amount of the balances nor the transactions exceed €50 million, the declarations can be filed on a summarized basis, only indicating the opening and closing balances of assets and liabilities held abroad, the total sum of receipts and the total sum of payments in the period reported.

8.4. Import and export of certain means of payment and movements in Spain

Ministerial Order EHA/1439/2006 on reporting movements of means of payment in the context of anti-money laundering, establishes that export of coins, banknotes and bank checks to bearer, in euros or in foreign currency, although deregulated, is subject to prior administrative disclosure for purely informative purposes if the amount involved exceeds €10,000 per individual per trip. If the disclosure is not made, Spanish customs officials may confiscate these means of payment.

Import of the above-mentioned means of payment by non-residents is subject in certain cases to prior disclosure to the Spanish customs authorities if the amount exceeds €10,000 (per individual per trip).

Movements in Spain of means of payment consisting of coins, banknotes and bank checks to bearer in Spanish or any other currency or any physical form, including electronic form, designed for use as a means of payment, for amounts of €100,000 or more, must also be disclosed previously. For the purposes of the this Order, “movement” shall be deemed to mean any change of place or position verified outside the domicile of the holder of the means of payment.
8. Legislation on foreign investment and exchange control

8.5. Anti-money laundering obligations of Notaries

Law 10/2010 on the Prevention of Money Laundering and Terrorist Financing of April 28, on the Prevention of Money Laundering and Terrorist Financing and Royal Decree 304/2014, of May 5, which approves the Regulation of Law 10/2010, along with other legal provisions, specify how notaries should meet certain obligations imposed on them for the prevention of money laundering.

Indeed, the status of notaries as public authenticating officials, deriving from their continuous involvement in economic and financial transactions, as well as their status as public officials with an obligation to collaborate with the central government authorities, constitute the ultimate basis of the duty incumbent on them to supply and request information on those transactions. For this purpose, and as a result of the recent amendment indicated, the notary public must verify who the “beneficial owner” executing the public document before the notary is.

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22 For the purposes of Law 10/2010, ‘beneficial owner’ means:

a) The natural person(s) on whose behalf the transaction is being carried up or a business relation is intended to be established.

b) The individual(s) who ultimately own or control directly or indirectly, more than 25% of the capital or of the voting rights of a legal entity, or who otherwise exercise control, directly or indirectly, over the management of a legal entity. This excludes companies listed on a regulated market of the European Union or equivalent third countries.

Where there is no one individual who owns or controls, directly or indirectly, a percentage in excess of 25% of the capital stock or of the voting rights at a legal entity, or otherwise exerts control, directly or indirectly, over the legal entity, it shall be construed that such control is exerted by the director or directors. Where the appointed director is a legal entity, it shall be construed that control is exerted by the individual appointed by the director.

c) The individual(s) who own or exercise control over 25% or more of the assets of a legal arrangement or entity that manages or distributes funds, or, where the beneficiaries have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates.

Where there is no one individual who owns or exerts control, directly or indirectly, over 25% or more of the assets mentioned in the preceding point, it shall be construed that the beneficial owner is the individual or individuals ultimately responsible for the running and management of the instrument or legal entity, even if there is a chain of control or ownership.

Beneficial owner status shall be held by the individuals who own or control 25% or more of the voting rights on the Board of Trustees, in the case of a foundation, or of the representative body, in that of an association, having regard to any resolutions or bylaw provisions that may affect the determination of the beneficial owner.

Where no individual or individuals satisfy the criteria established in the preceding paragraph, beneficial owner status shall be held by the members of the Board of Trustees and, in the case of associations, the members of the representative body or Leadership Board.
This guide was researched and written by Garrigues on behalf of ICEX-Invest in Spain.

This guide is correct to the best of our knowledge and belief at the date indicated below. It is, however, written as a general guide, so it is necessary that specific professional advice be sought before any action is taken.

Madrid, March 2015
Setting up a business in Spain is simple.

The type of business entities available are in keeping with those existing in other OECD countries and there is also a wide range of possibilities capable of meeting the needs of the different types of investor who wish to invest in or from Spain. Additionally, the concept of limited liability entrepreneur is analyzed in this chapter.

It is also worth noting that foreign investment restrictions and exchange controls have been virtually eliminated in line with the EU legislation on deregulation in this area.

This chapter describes the basic requirements of the different business structures for investing in Spain, as well as the key formalities that a foreign investor must fulfill in order to set up or start up each of them.
## Establishing a business in Spain

1. Introduction 3
2. Different ways of doing business in Spain 4
3. Tax identification number (N.I.F.) and foreigner identity number (N.I.E.) 5
4. Formation of a corporation 9
5. Limited liability entrepreneur 17
6. Opening of a branch 19
7. Other alternatives for operating in Spain 25
8. Other alternatives for investing in Spain 32
9. Dispute resolution 37

Appendix I 39
1. Introduction

1. INTRODUCTION

This chapter takes a practical look at the main alternatives open to a foreign investor interested in establishing a business in Spain, as well as the main steps, costs and legal requirements involved.

Several alternatives are analyzed in this chapter, from the establishment of business by the investor itself, either through the formation of a company or a branch or the pursuit of the activity directly by an individual entrepreneur under the form of the “limited liability entrepreneur”, or through a joint venture with other enterprises already established in Spain. Other channels for conducting business without a physical presence, such as distribution, agency, commission and franchising agreements are also considered.

The steps required to make the following types of investment are explained in this chapter:

- Setting-up of a Spanish corporation or limited liability company and formation of a Spanish branch (sections 4 and 6).

- Pursuit of the activity directly by an individual entrepreneur under the form of the “limited liability entrepreneur” (section 5).

- Acquisition of shares in an existing Spanish company (section 8.1).

- Acquisition of real estate located in Spain (section 8.2).

Finally, this Chapter contains a final section on dispute resolution in Spain, whether through court or arbitration proceedings, the latter being considered a real and effective alternative for the settlement of disputes.
2. Different ways of doing business in Spain

2. DIFFERENT WAYS OF DOING BUSINESS IN SPAIN

Various alternatives are open to the foreign investor once the decision to invest in Spain has been taken:

<table>
<thead>
<tr>
<th>Ways of Doing Business in Spain</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Creation of a Spanish company with its own legal personality</td>
<td>Spanish law provides for a variety of vehicles that can be used by foreign companies or individuals for investing in Spain. The most common forms used are the corporation (S.A.) and, principally, the limited liability company (S.L.).</td>
</tr>
<tr>
<td>Limited Liability Entrepreneur</td>
<td>Pursuit of the activity directly by the individual where certain requirements are met.</td>
</tr>
<tr>
<td>Branch or permanent establishment</td>
<td>Neither alternative has its own legal personality, meaning that their activity and legal liability will at all times be directly related to the parent company of the foreign investor.</td>
</tr>
</tbody>
</table>
| Joint venture | Association with other businesses already established in Spain. It allows the parties to share risks and combine resources and expertise. A joint venture can be set up under Spanish law in a number of ways:  
  • An Economic Interest Grouping (E.I.G.) and a European E.I.G. (E.E.I.G.).  
  • A Temporary Business Association (“Unión Temporal de Empresas” or U.T.E.).  
  • Under a type of silent partnership arrangement peculiar to Spanish law (“cuenta en participación”) with one or more Spanish entrepreneurs.  
  • Joint ventures through Spanish corporations or limited liability companies. |
| Without setting up a business or entering into an association with existing business or establishing a physical center of operations in Spain | The alternatives include:  
  • Signing a distribution agreement.  
  • Operating through an agent.  
  • Operating through commission agents.  
  • Franchising. |

Each of these forms of doing business in Spain offer different advantages that must be balanced against the potential setbacks from a tax and legal standpoint.
3. Tax Identification Number (N.I.F.) and Foreigner Identity Number (N.I.E.)

3. TAX IDENTIFICATION NUMBER (N.I.F.) AND FOREIGNER IDENTITY NUMBER (N.I.E.)

The applicable Spanish legislation currently requires that any individual or legal entity with economic or professional interests in Spain, or involved in a relevant way for tax purposes, must hold a tax identification number (in the case of legal entities) or a foreigner identity number (for individuals). In particular, and among other cases, a N.I.F./N.I.E. must be applied for when a foreign investor makes a direct investment in Spain or in the case of a shareholder or director of an entity resident in Spain or of a foreign entity’s permanent establishment located in Spain.

The following tables summarize the documentation and steps required to obtain (i) a N.I.E. for individuals who are to be shareholders or directors of companies resident in Spain or limited liability entrepreneurs; (ii) a N.I.F. for legal entities that are to be shareholders or directors of companies resident in Spain; and (iii) the provisional and definitive N.I.F. of the company resident in Spain that is to be set up.

3.1. N.I.E. for individuals who are to be shareholders or directors of companies resident in Spain

<table>
<thead>
<tr>
<th>Table 2</th>
<th>N.I.E. (FOR INDIVIDUALS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country of application</td>
<td>Where to submit application</td>
</tr>
<tr>
<td>Spain</td>
<td>Directorate-General of Police or at Immigration Offices or Police Stations.</td>
</tr>
<tr>
<td>Abroad</td>
<td>At the Spanish consulate office or diplomatic mission.</td>
</tr>
</tbody>
</table>

\(^1\) www.exteriores.gob.es
\(^2\) www.mjusticia.gob.es
3. Tax Identification Number (N.I.F.) and Foreigner Identity Number (N.I.E.)

3.2. N.I.F. for legal entities that are to be shareholders or directors of companies resident in Spain

Table 3

<table>
<thead>
<tr>
<th>Where to submit application</th>
<th>Documentation</th>
<th>Decision period</th>
</tr>
</thead>
</table>
| State Tax Agency            | • Form 036\(^3\) (declaration of registration on, amendment to, or deregistration from the census of parties subject to tax obligations, box 120), which must be signed by a representative of the company holding a N.I.E or Spanish national identity card.  
• Original and photocopy of the power of attorney evidencing the representative authority of the person signing form 036. The power of attorney must evidence the valid existence and continuity of the foreign company in accordance with the relevant foreign legislation.  
• Copy of the N.I.E. or Spanish national identity card of the signatory. | Immediate assignment of the N.I.F and sending of card within 10 business days. |

Note: Documents from other countries (such as powers of representation in order to appear before the authorities and apply for a N.I.F/N.I.E) must be translated into Spanish or the co-official language of the Autonomous Community\(^4\) in which the application is submitted. Any foreign public document must be legalized beforehand by the Spanish consulate office with jurisdiction in the country the document was issued and by the Ministry of Foreign Affairs and Cooperation, unless the document has been certified by apostille by a competent authority in the country of issue pursuant to the Hague Convention of October 5, 1961.

\(^3\) www.agenciatributaria.es
\(^4\) Bear in mind that a sworn translation must be made, both of the document and of its authentication and the apostille.
3.3. Provisional and definitive N.I.F. of the company resident in Spain that is to be set up

### Table 4

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Where to submit application</th>
<th>Documentation</th>
<th>Decision period</th>
</tr>
</thead>
</table>
| Ordinary procedure         | State Tax Agency            | • Form 036\(^5\) (declaration of registration on, amendment to, or deregistration from the census of parties subject to tax obligations, box 110), signed by a representative of the company holding a N.I.E or Spanish national identity card\(^6\).  
• Copy of the N.I.E. or Spanish national identity card of the signatory.  
• Clear name search certificate from the Central Commercial Registry.  
• Agreement of intent to form a company\(^7\). | Same day.        |
| Telematic procedure        | The notary authorizing the deed of formation will request the assignment of a provisional N.I.F by the State Tax Agency by telematic means. The shareholders and directors must have a N.I.E or a Spanish national identity card. |                                                          |                 |

\(^5\) Form 036 can be acquired at offices of the tax authorities or downloaded directly from the tax authority website: www.aeat.es (Templates and Forms/Tax returns/All Tax Returns).  
\(^6\) If the signatory of form 036 is not registered as a shareholder or member of the managing body in the agreement of intent, authorization of the signatory must be provided.  
\(^7\) With the following content: a) type of company, (b) corporate purpose, (c) initial capital stock, (d) registered office, (e) shareholders, and (f) the members of the managing body. A copy of the N.I.F./N.I.E./national identity document of the shareholders and members of the managing body must also be provided.
3. Tax Identification Number (N.I.F.) and Foreigner Identity Number (N.I.E.)

**Table 5**

**DEFINITIVE N.I.F. (AFTER SETTING UP THE COMPANY)**

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Where to submit application</th>
<th>Documentation</th>
<th>Decision period</th>
</tr>
</thead>
</table>
| Ordinary Procedure       | State Tax Agency.           | • Form 036 (declaration of registration on, amendment to, or deregistration from the census of parties subject to tax obligations, box 120), signed by a representative of the company holding a N.I.E. or Spanish national identity card.  
  • Original and photocopy of the power of attorney evidencing the representative authority of the person signing form 036.  
  • Copy of the N.I.E. or Spanish national identity card of the signatory.  
  • Original and copy of the deed of formation bearing the registration stamp. | 10 business days. |
| Telematic procedure      |                             | Once the company has been registered, the Commercial Registry officer will send the company’s registration details to the State Tax Agency by telematic means and the State Tax Agency will notify the notary and the registrar of the definitive nature of the N.I.F. |                 |

Note: Documents from other countries (such as powers of representation in order to appear before the authorities and apply for a N.I.F./N.I.E.) must be translated into Spanish or the co-official language of the Autonomous Community in which the application is submitted. Any foreign public document must be legalized beforehand by the Spanish consulate office with jurisdiction in the country the document was issued and by the Ministry of Foreign Affairs and Cooperation, unless the document has been certified by apostille by a competent authority in the country of issue pursuant to the Hague Convention of October 5, 1961.

Bear in mind that a sworn translation must be made, both of the document and of its authentication and the apostille.

The provisional and definitive N.I.F. may only be applied for in Spain and are free of charge.
4. Formation of a corporation

4. FORMATION OF A CORPORATION

The most common forms of legal entity under Spanish corporate law are the corporation ("Sociedad Anónima" - S.A.), and the limited liability company ("S.L.") (other corporate forms are described in Appendix I, section 2 of this Guide).

The main differences between S.A.s and S.L.s are as follows:

<table>
<thead>
<tr>
<th></th>
<th>S.A.</th>
<th>S.L.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Minimum capital stock</strong></td>
<td>€60,000</td>
<td>€3,000⁹</td>
</tr>
<tr>
<td><strong>Payment upon formation</strong></td>
<td>At least 25% and any share premium.</td>
<td>Payment in full.</td>
</tr>
<tr>
<td><strong>Contributions</strong></td>
<td>A report from an independent expert on any non-monetary contributions is required.</td>
<td>No report from an independent expert on non-monetary contributions is required, although the founders and shareholders are jointly and severally liable for the authenticity of any non-monetary contributions made.</td>
</tr>
<tr>
<td><strong>Shares</strong></td>
<td>They are marketable securities. Debentures and other securities can be issued.</td>
<td>They are not marketable securities. Debentures and other securities cannot be issued.</td>
</tr>
<tr>
<td><strong>Transfer of shares</strong></td>
<td>Depends on how they are represented (share certificates, book entries, etc.) and on their nature (registered or bearer shares). In principle, they may be freely transferred, unless the bylaws provide otherwise.</td>
<td>Must be recorded in a public document. S.L. shares are generally not freely transferable (unless acquired by other shareholders, ascendants, descendants or companies within the same group). In fact, unless otherwise provided in the bylaws, the law establishes a pre-emptive acquisition right in favor of the other shareholders or the company itself in the event of a transfer of the shares to persons other than those referred to above.</td>
</tr>
<tr>
<td><strong>Amendments to the bylaws</strong></td>
<td>The directors or shareholders, as the case may be, making the proposal must make a report.</td>
<td>No report is required.</td>
</tr>
<tr>
<td><strong>Venue for shareholders’ meetings</strong></td>
<td>As indicated in the bylaws (in any event, the meeting must be held in Spain). Otherwise, in the municipality where the company has its registered office.</td>
<td></td>
</tr>
</tbody>
</table>

⁹ Except in the case of the entrepreneurial limited liability company, the rules for which are described in section 4.2 of Annex I.
4. Formation of a corporation

**Table 6 (Cont.)**

**MAIN DIFFERENCES BETWEEN S.A. AND S.L.**

<table>
<thead>
<tr>
<th></th>
<th>S.A.</th>
<th>S.L.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Attendance and majorities at shareholders’ meetings</strong></td>
<td>Different quorums and majorities are established for meetings on first and second call and depending on the content of the resolutions. These can be increased by the bylaws.</td>
<td>Different majorities are established depending on the content of the resolutions. These can be increased by the bylaws.</td>
</tr>
<tr>
<td><strong>Right to attend shareholders’ meetings</strong></td>
<td>A minimum number of shares may be required to attend the shareholders’ meeting.</td>
<td>These rights cannot be restricted.</td>
</tr>
</tbody>
</table>
| **Number of members of the board of directors** | Minimum: 3.  
No maximum limit. | Minimum: 3.  
A maximum of 12 members |
| **Term of the office of director** | Maximum 6 years. They may be reelected for periods of the same maximum duration. | May be indefinite. |
| **Issue of bonds** | Bond issues may be used as a means to raise funds. | Limited liability companies cannot issue bonds. |
4. Formation of a corporation

4.1. Legal formalities

4.1.1. General regime

• The ordinary steps and expenses involved are similar for both legal forms and are detailed in the following tables:

Table 7

<table>
<thead>
<tr>
<th>Requirements</th>
<th>Applicable to any kind of limited liability company or corporation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. <strong>Clear name search certificate</strong></td>
<td>Application to the Central Commercial Registry by the interested party or anyone authorized by it (may contain up to five alternative corporate names)(^{10}). The Central Commercial Registry will issue a name reservation certificate for the new company. Names are reserved for a period of six months as from the date of issue of the certificate.</td>
</tr>
<tr>
<td>2. <strong>Application for provisional N.I.F.</strong></td>
<td>See section 3.3 above.</td>
</tr>
<tr>
<td>3. <strong>Opening of a bank account</strong></td>
<td>Opening of a bank account in the entity’s name for payment of the capital stock. Once the founding shareholders have paid in the capital, the bank must issue payment certificates.</td>
</tr>
<tr>
<td>4. <strong>Document containing representations by the beneficial owner</strong></td>
<td>The founding shareholders must execute a document containing representations by the beneficial owner in accordance with Law 10/2010, of April 28(^{11}).</td>
</tr>
</tbody>
</table>

\(^{10}\) Applications for clear name search certificates may be made:

• Directly at the offices of the Central Commercial Registry with a printed application form.
• By mail, by sending an application or letter to the offices of the Central Commercial Registry. The Registry will issue the certificate in return for payment on delivery to the address indicated in the application.
• By telematic means, by filling the application form on the website: www.rmc.es.

\(^{11}\) Law 10/2010, of April 28, on the Prevention of Money Laundering and Terrorist Financing requires the founders of a company to provide a declaration by the “beneficial owner”, that is, by the individual(s):

• On whose behalf it is intended to establish a business relationship or take part in transactions; and/or.
• Who, in the last instance, directly or indirectly own(s) or control(s) more than 25% of the capital stock or voting rights of a legal entity, or who by any other means exercise(s) direct or indirect control over the management of a legal entity. Companies listed on a regulated market of the European Union or other equivalent third country are excepted; and/or.
• Who hold or exercise control over 25% or more of the assets of a vehicle or legal entity that manages or distributes funds, or, where the beneficiaries are still to be designated, the category of persons for whose benefit the legal entity or vehicle is created or mainly acts.
4. Formation of a corporation

**Table 7 (Cont.)**

<table>
<thead>
<tr>
<th>Requirements</th>
<th>Applicable to any kind of limited liability company or corporation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>5. Execution of deed before a notary</strong></td>
<td>The founding shareholders must execute a public deed before a notary, containing:</td>
</tr>
<tr>
<td>(i) Evidence of the identity of the founding shareholders.</td>
<td></td>
</tr>
<tr>
<td>a. If any of the shareholders is represented at the act of formation, a notarized power of attorney to represent the shareholder must be produced to the notary. If the power of attorney is issued abroad, it must be duly legalized.</td>
<td></td>
</tr>
<tr>
<td>(ii) Representations by the beneficial owner (see requirement 4 above).</td>
<td></td>
</tr>
<tr>
<td>(iii) Evidence of contributions and whether they are to be made in cash or in kind (if applicable) using the corresponding bank documentation, as well as details of the capital stock subscribed by the shareholders (see requirement 3 above).</td>
<td></td>
</tr>
<tr>
<td>(iv) Clear name search certificate issued by the Commercial Registry (see requirement 1 above).</td>
<td></td>
</tr>
<tr>
<td>(v) Company bylaws.</td>
<td></td>
</tr>
<tr>
<td>(vi) Identification of and acceptance by the company directors.</td>
<td></td>
</tr>
<tr>
<td>(vii) Subsequent declaration of foreign investment to the Register of Foreign Investment of the Directorate-General for Trade and Investment (“D.G.C.I.”) of the Ministry of Economy and Competitiveness (see Chapter 1, section 8 for further information). In some cases, limited mainly to foreign investments from countries or territories deemed to be tax havens, a prior declaration must be made (see Chapter 1, section 8 for further information).</td>
<td></td>
</tr>
<tr>
<td>(viii) Identification of the economic activity code describing the activity in accordance with the National Classification of Economic Activities (CNAE).</td>
<td></td>
</tr>
<tr>
<td><strong>6. Application for registration of the registered office at the Commercial Registry</strong></td>
<td>The deed of formation will be submitted (i) telematically by the notary; or (ii) in person by the interested party.</td>
</tr>
</tbody>
</table>

---

12 There are two main procedures for such legalization:

- Execution of the powers of attorney in the presence of the Spanish Consul in the foreign investor’s home country. The foreign investor appears before the Spanish Consul, provides evidence of his identity and grants the related powers of attorney. If a company, rather than an individual, is the foreign shareholder, apart from his identity, the person appearing before the Spanish Consul must provide evidence of his capacity to grant the powers of attorney to the designated person in the name and on behalf of the shareholder. The Spanish Consul may demand any documentation he considers necessary and will proceed to grant a deed of power of attorney, in Spanish, to the designated person. This power of attorney may be used directly in Spain.

- Execution of the power of attorney in the presence of a foreign public authenticating officer. The foreign investor appears before the authenticating officer, provides evidence of his identity and grants the related power of attorney. If the foreign investor is a company, its representative shall execute the power of attorney in the presence of the public authenticating officer, who will certify the document as well as the identity and capacity of the representative of the foreign investor to grant the power of attorney. The signature of the foreign authenticating officer would also require subsequent legalization (either by the “apostille” procedure approved by the Hague Convention of October 5, 1961, or by a Spanish Consul abroad). Under this second procedure, the power of attorney would normally be issued in the language of the authenticating officer who attests to the act, meaning a sworn translation into Spanish would also have to be provided.

13 It will not be necessary to evidence the reality of the monetary contributions in the case of entrepreneurial limited liability companies (see Annex 1, section 4.2).
4. Formation of a corporation

Table 7 (Cont.)

<table>
<thead>
<tr>
<th>Requirements</th>
<th>Applicable to any kind of limited liability company or corporation</th>
</tr>
</thead>
<tbody>
<tr>
<td>7. Period for assessment and registration in the Commercial Registry</td>
<td>Fifteen (15) days as from the date of the entry recording the filing of the deed, unless there is just cause, in which case the period will be thirty (30) days.</td>
</tr>
<tr>
<td>8. Obtainment of definitive N.I.F.</td>
<td>See section 3.3 above.</td>
</tr>
<tr>
<td>9. Opening formalities for tax and labor purposes</td>
<td>Registration for the purposes of the Tax on Economic Activities: submission of Form 036. Companies being set up must describe the activities they are going to pursue and the reason why they are exempt from this tax. The following, among others, are exempt from this tax: • Individuals are exempt in any case. • Legal entities during the first two years they pursue their activities. • Legal entities whose net turnover is less than one million euros. This step must be completed before the company commences operations. Registration for the purposes of Value Added Tax (V.A.T.). Obtainment of an opening license from the relevant municipal council. Registration of the company for Spanish social security and occupational accident insurance purposes, and registration of the hiring of employees for social security purposes. Procedural formalities at the provincial office of the Ministry of Employment and Social Security.</td>
</tr>
</tbody>
</table>

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As a general rule, setting up a corporation or limited liability company using the ordinary procedure takes between 6 and 8 weeks.

Without prejudice to the foregoing, in accordance with article 5 of Royal Decree-Law 13/2010, of December 3, on Tax, Employment and Deregulation Measures to Promote Investment and the Creation of Employment, the incorporation of limited liability companies by telematic means the notarial fees shall amount to 150 euros and the registration fees shall amount to 100 euros, and in case of the incorporation, by telematics means, of limited liability companies with a share capital no higher than 3,100 euros and with bylaws in line with any of those approved by the Ministry of Justice, the notarial fees shall amount to 60 euros and the registration fees shall amount to 40 euros.

For aspects relating to labor formalities and authorizations, see Chapter 5.

For additional information please visit www.investinspain.org.
4. Formation of a corporation

4.1.2. Special regime

Law 14/2013, of September 27, 2013, on support to entrepreneurs and their internationalization (the “Entrepreneurs Law”) provides an express regime for the formation of limited liability companies, with and without standard bylaws, the content of which will be implemented by secondary legislation. This notwithstanding, according to the provisions of the law, the regime will consist of the following steps:

1. Formation of a limited liability company with standard bylaws:

<table>
<thead>
<tr>
<th>Table 8</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LIMITED LIABILITY COMPANY WITH STANDARD BYLAWS</strong></td>
</tr>
<tr>
<td>Nº.</td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>1.2.</td>
</tr>
<tr>
<td>1.3.</td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>2.1.</td>
</tr>
<tr>
<td>2.2.</td>
</tr>
<tr>
<td>2.3.</td>
</tr>
<tr>
<td>2.4.</td>
</tr>
<tr>
<td>3</td>
</tr>
<tr>
<td>3.1.</td>
</tr>
<tr>
<td>3.2.</td>
</tr>
<tr>
<td>3.3.</td>
</tr>
<tr>
<td>4</td>
</tr>
<tr>
<td>4.1.</td>
</tr>
<tr>
<td>4.2.</td>
</tr>
<tr>
<td>5</td>
</tr>
<tr>
<td>5.1.</td>
</tr>
<tr>
<td>5.2.</td>
</tr>
<tr>
<td>5.3.</td>
</tr>
</tbody>
</table>

\[15\] It will not be necessary to evidence the reality of the monetary contributions in the case of entrepreneurial limited liability companies (see Chapter 2, section 4.2).
4. Formation of a corporation

2. Formation of a limited liability company without standard bylaws:

Table 9
LIMITED LIABILITY COMPANY WITHOUT STANDARD BYLAWS

<table>
<thead>
<tr>
<th>N.º</th>
<th>STEP</th>
</tr>
</thead>
</table>
| 1   | At the Entrepreneur Service Point ("PAE"), the founding shareholders may:  
• File a request to reserve the name of the company.  
• Set the date for the execution of the deed of formation. |
| 2   | The notary will:  
2.1. Authorize the deed of formation, attaching the document evidencing payment of the capital stock.  
2.2. Immediately send a copy of the deed to the tax authorities, requesting the assignment of a provisional NIF via the Business Information Center and Creation Network ("CIRCE") remote processing system.  
2.3. Send an authorized copy of the deed of formation to the Commercial Registry corresponding to the registered office via the CIRCE remote processing system.  
2.4. Deliver an electronic uncertified copy of the deed of formation to the executing parties at no additional cost. |
| 3   | The Commercial Registrar, on receiving the electronic copy of the deed of formation, shall initially register the company at the Commercial Registry within a period of 6 business hours, solely indicating the data relating to: (i) name, (ii) registered office; (iii) corporate purpose, (iv) capital stock; and (v) managing body.  
Definitive registration will take place within the ordinary assessment period.  
Once registered, the Commercial Registrar will notify the competent tax authorities of the registration of the company, requesting the definitive NIF. |
| 4   | The tax authorities will:  
4.1. Notify the definitive status of the NIF via the CIRCE.  
4.2. Notify the N.I.F. via the CIRCE. |
| 5   | The formalities for commencement of the activity will be performed at the PAE, which will send the information contained in the DUE to:  
5.1. The State Tax Agency.  
5.2. The Social Security General Treasury.  
5.3. The local and autonomous community authorities, as the case may be. |

Note: where the founding shareholders choose to form an SL without standard bylaws, the formalities for formation may be performed using the DUE and the CIRCE remote processing system.  
It will not be necessary to evidence the reality of the monetary contributions in the case of entrepreneurial limited liability companies (see Chapter 2, section 4.2).

It should be noted that according to the Entrepreneurs Law:

• Entrepreneur Service Points ("PAE") are: offices belonging to public and private organizations, including notary offices, which will be tasked with facilitating the creation of new businesses, the
4. Formation of a corporation

effective commencement of their operations and their development, by providing information, processing, documentation and advisory services.

• The Single Electronic Document ("DUE") is the document containing the data that must be sent to the legal registries and to the competent public authorities for:
  — The formation of limited liability companies.
  — The registration at the Commercial Registry of the Individual Entrepreneur.
  — Fulfillment of the tax and social security obligations on commencement of the activity.
  — The performance of any other formality on commencement of the activity with the state, autonomous community and local authorities.

4.2. Fees and Costs

• Fees of the notary handling the formation, which are charged on a sliding scale based on the capital stock. For guidance purposes, the official rates amount to approximately €90 for the first €6,010, after which rates of between 0.03% and 0.45% are applied to amounts of between €6,010,121 and €601,012.10. For any amount in excess of €6,010,121.10, the notary will receive the amount that is freely agreed upon by the executing parties.

• Fees for registering the company at the local Commercial Registry. There are official rates that amount to €6.01 for the first €3,005, after which there is a sliding scale ranging from 0.005% and 0.10% for capital in excess of €6,010,121. The total fee is capped and may not exceed €2,181.

• Transfer tax under the "corporate transactions" heading, exempt in accordance with Royal Decree-Law 3/2010 (see Chapter 3)\(^{17}\).

• Opening license. A one-off municipal tax, ordinarily a relatively small amount\(^{18}\).

• Other expenses (e.g. professional fees) which are not readily quantifiable.

\(^{17}\) The decision by the Directorate-General of Registries and the Notarial Profession of January 26, 2012, establishes that in forming companies domiciled in territories where rules or instructions have been handed down regarding the settlement of transfer tax (including under the corporate transactions heading), the relevant tax return must be submitted together with the deed of formation at the relevant Commercial Registry.

\(^{18}\) In this connection, establishments of up to 750 m2 will not require opening and activity licenses in accordance with the provisions of Law 12/2012 on Urgent Measures to Deregulate Trade and Certain Services.
5. Limited liability entrepreneur

5. LIMITED LIABILITY ENTREPRENEUR

The Entrepreneurs Law created the concept of the “Limited Liability Entrepreneur” (*ERL*), the main characteristics of which are as follows:

<table>
<thead>
<tr>
<th>Table 10</th>
<th>MAIN CHARACTERISTICS OF THE ERL</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Concept</strong></td>
<td>Limited Liability Entrepreneur status can be taken on by an individual entrepreneur, regardless of their business or professional activity, to limit their liability for the debt deriving from the conduct of their business which will prevent any such debt from affecting their principal residence under certain conditions. It makes an exception to the limited liability regime for any public law debts acquired by the Limited Liability Entrepreneur the collection of which is subject to the provisions of General Taxation Law 58/2003, of December 17, 2003, General Budget Law 47/2003, of November 26, 2003, and Legislative Royal Decree 1/1994, of June 20, 1994, approving the revised General Social Security Law.</td>
</tr>
</tbody>
</table>

| **Requirements** | 1. **Registration of ERL status at the Commercial Registry corresponding to the registered office:**  
The notarial certificate that must be submitted by the notary to the Commercial Registry on the same day or on the business day following its authorization, or the application signed with the digital signature of the entrepreneur and sent by telematic means to the Commercial Registry, will be sufficient to apply for first registration of a Limited Liability Entrepreneur. |
| | 2. **Value of the principal residence:**  
| a. May not exceed €300,000 (valued according to the taxable amount for transfer and stamp tax purposes at the time of registration at the Commercial Registry).  
| b. In the case of residences located in towns with more than 1,000,000 inhabitants, a multiplier of 1.5 will be applied to the value under (a) above. |
| 3. **Disclosure of ERL status**  
It must be mentioned on all documentation, stating the registry particulars. |
| 4. **Registration at the Property Registry**  
The fact that the principal residence is not tied to the professional activity must be registered at the Property Registry. The Commercial Registrar will issue a certificate and send it to the Property Registrar by telematic means on the same business day as registration of ERL status at the relevant Commercial Registry. |
5. Limited liability entrepreneur

The Entrepreneurs Law provides that the necessary formalities for registration of ERL status may be performed using the CIRCE system and the DUE. In this case, the procedure would be as follows:

Table 11
LIMITED LIABILITY ENTREPRENEUR WITH STANDARD BYLAWS

<table>
<thead>
<tr>
<th>N.º</th>
<th>STEP</th>
</tr>
</thead>
</table>
| 1   | At the Entrepreneur Service Point ("PAE"):  
1.1. Completion of the single electronic document ("DUE") and submission of the necessary documentation for registration at the Commercial Registry and at the Property Registry. |
| 2   | 2.1. Sending of the DUE along with the relevant documentation to the Commercial Registry by the PAE, requesting the registration of the limited liability entrepreneur.  
2.2. The Commercial Registry has 6 business hours in which to register the entry and send the certification of registration to the CIRCE system by telematic means.  
2.3. The CIRCE system will send the Commercial Registry certificate to the tax authorities. |
| 3   | The Commercial Registrar will send the certificate of registration to the Property Registry, requesting registration of the prohibition on attachment of the ERL’s principal residence in respect of professional and business debts. |
| 4   | The Property Registrar will register the prohibition within 6 business hours of receipt of the request, and shall immediately notify the registration to the CIRCE system, which will forward it to the tax authorities. |

Entrepreneurs can ascertain the status of the procedure at any time from the corresponding PAE.
6. Opening of a branch

6. OPENING OF A BRANCH

In general terms, the requirements, procedural formalities and costs of opening a branch in Spain of a foreign company are very similar to those for the formation of a subsidiary (as a company). The main legal steps and costs are summarized below, highlighting the main differences with respect to the formation of a subsidiary.
6. Opening of a branch

6.1. Legal steps and costs

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Clear name search certificate</td>
</tr>
<tr>
<td>2.</td>
<td>Obtainment of the N.I.F and appointment of the representative of the parent company in dealings with the Spanish tax authorities</td>
</tr>
<tr>
<td>3.</td>
<td>Document containing representations by the beneficial owner</td>
</tr>
<tr>
<td>4.</td>
<td>Execution of the deed recording the opening of a branch before a Spanish notary</td>
</tr>
<tr>
<td>5.</td>
<td>Application for registration at the Commercial Registry</td>
</tr>
<tr>
<td>6.</td>
<td>Opening formalities</td>
</tr>
</tbody>
</table>

---

19 In this connection, establishments of up to 750 m² will not require opening and activity licenses in accordance with the provisions of Law 12/2012 on Urgent Measures to Deregulate Trade and Certain Services.
6. Opening of a branch

As a general rule, setting up a branch takes between 6 and 8 weeks.

6.2. Branch versus subsidiary

The main differences between a branch and a subsidiary to be taken into consideration from a tax and legal standpoint are summarized below.

<table>
<thead>
<tr>
<th>DIFFERENCES INTO CONSIDERATION Y TAX AND LEGAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Branch</td>
</tr>
<tr>
<td>Minimum capital stock:</td>
</tr>
<tr>
<td>Legal personality:</td>
</tr>
<tr>
<td>Managing and government body</td>
</tr>
<tr>
<td>Shareholder liability:</td>
</tr>
</tbody>
</table>

From a tax standpoint, both the branch and the subsidiary are, in general terms, liable for Spanish corporate income tax (subsidiary) or non resident income tax (branch) at 28% for 2015 and 25% for 2016 onwards (for 2014 it was 30%) on their net income, although the following considerations should be taken into account:

- The remittance of branch profits and the payment of a subsidiary’s dividend to a non-EU parent company resident in a non-treaty country are taxable in Spain at the rate of 20% for 2015 and 19% for 2016 onwards (for fiscal years 2012, 2013 and 2014, the tax rate has been increased to 21%); if the parent company is EU-resident, the remittance or dividend is usually tax-exempt. If the parent company is resident in a non-EU country with which Spain does have a tax treaty, the dividends would be taxable at the reduced treaty rate and the remittance of branch profits would, under most of the treaties, be exempt from tax in Spain.
6. Opening of a branch

- Generally, all branches are permanent establishments. Nonetheless, a branch is not the only form of permanent establishment. In order to identify whether or not a permanent establishment exists, consideration must first be given to whether or not a tax treaty has been signed between Spain and the country of residence of the interested party.

  a) If a tax treaty has been signed between Spain and the taxpayer’s country of residence, regard must be had to the definition of permanent establishment set forth therein. Barring particular features, the tax treaties currently in force are generally in line with the definition set forth under Article 5 of the OECD Model Convention, which distinguishes between two forms of permanent establishment.

  The first form of permanent establishment is the fixed place of business. This is a place through which the business of an enterprise is wholly or partly carried on. In general, a fixed place of business will therefore exist where the following requirements are met:

  - The facility, center or site must be used to carry on the business.
  - The facility must be fixed or related to a specific place or space, with a certain degree of permanence over time.
  - The activity must be productive and must contribute to the enterprise’s global income.

  This definition of permanent establishment excludes a fixed place of business from which certain auxiliary or preparatory activities, listed in the tax treaties, are carried on.

  The second form of permanent establishment is the dependent agent. This is an agent who acts on behalf of the nonresident entity, who has and exercises powers to bind such entity, and who does not have independent agent status.

  b) If there is no applicable tax treaty, regard must be had to the definition of permanent establishment set forth in Spanish domestic law. Article 13.1.a of Legislative Royal Decree 5/2004, approving the revised Nonresident Income Tax Law has, to a great extent, been brought into line with the aforesaid definition of permanent establishment according to the OECD Model Convention.

- The Directorate General of Taxes has ruled on a number of occasions that the Special Rules regulated under Title VII of the Corporate Income Tax Law 27/2014, of November 27, 2014 are applicable to permanent establishments located in Spain and belonging to nonresident entities, inter alia, the special rules applicable to small entities (For further information on the special rules, see Chapter 3).

- Share of parent company overheads: In practice, it is usually easier for these expenses (if any are imputed) to qualify as deductible in the case of a branch than in the case of a subsidiary.
6. Opening of a branch

- Interest on loans from a foreign parent company to its Spanish branch is not tax-deductible for the branch. By contrast, the interest on loans from the shareholders of a subsidiary is normally tax-deductible for the subsidiary, provided that the transaction is valued on an arm’s-length basis and subject to certain requirements.

6.3. Calculation of Spanish corporate income tax

Below is a very simple example of the calculation of Spanish corporate income tax on the profit obtained by a Spanish subsidiary or by the branch in Spain of a foreign company. (For further information, see section 2.1. of Chapter 3).

<table>
<thead>
<tr>
<th>Table 14</th>
</tr>
</thead>
<tbody>
<tr>
<td>PARENT COMPANY IN</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>EU COUNTRY</th>
<th>TREATY COUNTRY</th>
<th>NON-TREATY COUNTRY</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Subsidiary:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Profit of Spanish subsidiary</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Spanish income tax (30%)²</td>
<td>28</td>
<td>28</td>
<td>28</td>
</tr>
<tr>
<td>Dividends</td>
<td>72</td>
<td>72</td>
<td>72</td>
</tr>
<tr>
<td>Withholding tax on dividends</td>
<td>— 4</td>
<td>7 ⁵</td>
<td>14.4 ³</td>
</tr>
<tr>
<td>Total tax in Spain</td>
<td>28</td>
<td>35</td>
<td>42.4</td>
</tr>
<tr>
<td><strong>Branch:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Profit of Spanish branch</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Spanish income tax (30%)²</td>
<td>28</td>
<td>28</td>
<td>28</td>
</tr>
<tr>
<td>Profit remitted to the parent company</td>
<td>72</td>
<td>72</td>
<td>72</td>
</tr>
<tr>
<td>Withholding tax</td>
<td>— ⁴</td>
<td>— ⁶</td>
<td>14.4 ³</td>
</tr>
<tr>
<td>Total tax in Spain</td>
<td>28</td>
<td>28</td>
<td>42.4</td>
</tr>
</tbody>
</table>

¹ Spain has tax treaties in force with all EU countries except Cyprus.
² The general corporate income tax rate is 28%. Nonetheless, there are reduced tax rates, e.g., for small companies (25%-28%). For further information, see Chapter 3.
³ Withholding tax rate = 20%.
⁴ Exempt, provided certain conditions are met.
⁵ The withholding tax rate on dividends used in this example is 10% (the most common rate in the tax treaties entered into by Spain).
⁶ The branch profit tax will apply if provided for in the corresponding tax treaty (e.g. the U.S., Canada and Brazil).
6. Opening of a branch

6.4. Representative Offices

Apart from through a corporation or a branch, a foreign investor in Spain may operate, among other options, through a representative office.

In light of the lack of specific regulations in this respect, a definition may be found in the tax treaties signed by Spain with third countries: a representative office is understood to be a fixed place of business, established by a nonresident company, that pursues purely marketing or informational activities relating to commercial, financial and economic matters but does not conduct any actual business.

This form of establishment in Spain is considered very useful for potential investors, as it allows them to obtain all kinds of information on which they can base their investment decision, without having to comply with too many legal formalities. A representative office is, therefore, the ideal vehicle for conducting market research, studying the level of competition existing in the industry in which it intends to invest, compiling financial projections and profit estimates for the investment or negotiating the acquisition of companies via purchase of shares or of assets and liabilities.

Representative offices have, inter alia, the following key characteristics:

- Representative offices do not have separate legal personality from their parent.
- The nonresident company is liable for all debts assumed by the representative office.
- Representative offices cannot themselves conduct commercial transactions.
- In general, no commercial requirements need to be met for a representative office to be opened, although mainly for tax, employment and social security purposes a public deed (or document executed before a foreign notary public, duly legalized with the Hague Apostille or any other applicable form of legalization) may have to be executed, recording the opening of the representative office, the allocation of funds, the identity of the tax representative (an individual or legal entity resident in Spain) and its powers. Representative offices need not be recorded at the Commercial Registry.
- Representative offices have no formal managing bodies; the representative of each office performs the activities of the representative office by virtue of the powers granted to that representative.

As regards the main employment and tax aspects of representative offices, please see the corresponding sections in chapters 3 and 5.
7. Other alternatives for operating in Spain

7. OTHER ALTERNATIVES FOR OPERATING IN SPAIN

7.1. Forms of business cooperation

One of the most common forms of business cooperation between companies is the joint venture (J.V.). Spanish law provides for different forms of joint venture, allowing transactions to be performed between one or more parties:

7.2. Temporary Business Associations (U.T.E.s)

- **Concept/purpose:** Under Spanish law, U.T.E.s are temporary business alliances set up for a specified or unspecified period of time, for the purpose of carrying out a specific project or service. U.T.E.s allow several companies to operate together on one common project. This form of association is very common for engineering and construction projects but can be used in other sectors as well.

- **Legal personality:** U.T.E.s are not companies in the strict sense and have no legal personality.

- **Fiscal transparency regime:** While they have no legal personality, in order to qualify for the special fiscal transparency regime provided for U.T.E.s, they must be formed by notarial deed and registered on the Special Register of U.T.E.s at the Spanish Ministry of Finance and Public Administration and must comply with bookkeeping and accounting requirements similar to those of Spanish companies. They may be also registered at the Commercial Registry. Formalities for formalization of a U.T.E are similar to those for a company or branch, adjusted to reflect the special characteristics of this type of arrangement.


7.3. Economic Interest Groupings (E.I.G.s)

- **Concept/purpose:** E.I.G.s are created with a view to facilitating the pursuit or enhancing the profitability of the activities of their members. E.I.G.s may not act on behalf of their members nor may they substitute them in their operations. Consequently, the E.I.G. is most commonly used to provide secondary services, such as centralized purchasing, sales, information management or administrative services, within the context of a broader association or group of companies.

- **Legal personality:** One of the key differences between U.T.E.s and E.I.G.s is that E.I.G.s are commercial entities with a separate legal personality.
7. Other alternatives for operating in Spain

• **Formation requirements**: Spanish law sets out certain requirements for the formation of E.I.G.s:
  
  — They may not interfere with their members’ decisions on personnel, finance or investment matters, nor are they allowed to manage or control the activities of their members.
  
  — They may not directly or indirectly hold stakes in their member companies, unless it is necessary to acquire shares or holdings in order to fulfill the E.I.G.’s purpose, in which case the shares or holdings must be transferred immediately to its members.
  
  — They must be formed by notarial deed and registered at the competent Commercial Registry.

• **Member liability**: E.I.G. members are considered personally and jointly and severally liable for the entity’s debts, albeit secondarily to the E.I.G.’s liability. Their main obligation is to contribute to the E.I.G.’s capital on the agreed terms and to share in its expenses.

• **Governing bodies**:
  
  — The members’ meeting and
  
  — The managers, who are jointly and severally liable with the E.I.G. for all tax obligations accrued and for any damage caused, unless they are able to prove that they acted with due diligence.

• **Regulation**: E.I.G.s are mainly governed by Economic Interest Groupings Law 12/1991, of April 29.

• **European Economic Interest Grouping (E.E.I.G.)**: this has a separate legal identity, with the characteristics regulated by EU Council Regulation (EEC) 2137/85, which establishes the basic rules governing E.E.I.G.s.

7.4. Silent Participation Agreement (C.E.P.)

• **Concept**: This form of business association, which is not subject to any legal formality at all, consists of a financial collaboration whereby one or more entrepreneurs (silent partners) take an interest in the operations of another (the active partner), contributing an agreed portion of capital to the active partner and sharing in the profits or losses in the proportion determined by them.

• **Contributions**: The contributions, whether cash or in kind, do not qualify as capital contributions as such, but rather simply represent the right of the silent partner(s) to share in the results of the business concerned. Silent partners are therefore not shareholders of the active partner.
7. Other alternatives for operating in Spain

- **Formal requirements:** As provided in the Commercial Code, this type of agreement does not require any legal formality to be fulfilled (public deed or registration at the Commercial Registry). However, in practice, the parties tend to record the agreement in a public deed in order to provide proof to third parties.

- **Regulation:** Articles 239 through 243 of the Commercial Code, contained in Title II “Silent Participation Agreements” (Book II of the Commercial Code).

7.5. Joint ventures through Spanish corporations or limited liability companies

A significant number of joint ventures use corporations and limited liability companies as vehicles. Therefore, we recommend reading the comments made in other sections of this Guide on the formation, basic characteristics and features of the corporate bodies of corporations and limited liability companies. (See this Chapter and Annex I).

7.6. Distribution, agency, commission agency and franchising agreements

1. Distribution agreements

Distribution agreements are an interesting alternative to forming a company or branch or entering into commercial cooperation agreements with previously existing businesses given the low initial investment required. There are several types of distribution agreement. Given the current lack of specific legislation on this area, many such agreements allow the parties broad discretion to decide on their contents.

In practice, distribution agreements are often confused with agency agreements. Nevertheless, they are different and have distinct regulations and characteristics.

- **Concept:** Under a distribution agreement, one of the parties (the distributor) undertakes to purchase goods belonging to the other party for resale.

   Distributors are legal entities that form an intrinsic, albeit not truly integrated, part of the commercial network of the supplier, united by a business relationship and a shared desire to increase sales.

- **Classification:** there are three main categories according to the types of distribution networks or system:
  
  — Commercial concession or exclusive distribution agreements

    The supplier not only undertakes not to provide his products to more than one distributor within a specified territory, but also not to sell those products himself within the territory of the exclusive distributor.
7. Other alternatives for operating in Spain

— Sole distribution agreements:

The only difference between sole and exclusive distribution agreements is that under a sole distribution agreement, the supplier reserves the right to supply the agreed products to users in the territory in question.

— Authorized distribution agreements under the selective distribution system:

Owing to their nature, certain products require special treatment by distributors and sellers. The form of distribution used in both cases is called “selective distribution”, so-called because distributors are carefully selected on the basis of their capacity to handle technically complex products or to maintain a particular image or brand name.

2. Agency agreements

• Concept: Article 1 of Agency Agreements Law 12/1992 transposed Directive 86/653/EEC into Spanish law and provides the following definition of agency agreements:

“Under an agency agreement, an individual or legal entity, known as an agent, agrees with another on a continuous or regular basis, in exchange for remuneration, to promote commercial acts or transactions for the account of another or to promote and conclude them for the account and in the name of others, as an independent intermediary and without assuming the risk and hazard of such transactions, unless otherwise agreed.”

Agents are independent intermediaries who do not act in their own name and behalf, but rather for and on behalf of one or more principals.

An agent must, of his own accord or through his employees, negotiate and, if required by contract, conclude on behalf of the principal, the commercial acts or operations he is instructed to handle. Agents are subject to a number of obligations, including the following:

— An agent cannot outsource his activities unless expressly authorized to do so.

— An agent is authorized to negotiate the agreements or transactions detailed in the agency agreement, but can only conclude them on behalf of its principal when expressly authorized to do so.

— An agent may act on behalf of several principals, unless the related goods or services are similar or identical, in which case express consent is required.

• Restraint-of-trade provisions: restraint-of-trade provisions (i.e., provisions restricting or limiting the activities that can be carried out by the agent once the agency agreement has been terminated) have a maximum duration of two years as from termination of the agency agreement.
7. Other alternatives for operating in Spain

- **Obligations of the principal:**
  - To act loyally and in good faith in its relations with the agent.
  - To provide the agent with all the documentation he needs to engage in his activity.
  - To provide the agent with all the information required to perform the agreement.
  - To pay the agreed compensation.
  - To accept or reject transactions proposed by the agent.

- **Compensation:** One of the essential elements of the agency agreement is that the agent’s work must always be compensated. The compensation may consist of a fixed amount, a commission or a combination of both.

3. Commission agency agreements

- **Concept:** This is the mandate under which the authorized agent (commission agent) undertakes to perform or to participate in a commercial act or agreement on behalf of another (the principal). Commission agents may act:
  - In their own name, acquiring rights against the contracting third parties and vice versa and
  - On behalf of their principal, who acquires rights against third parties and vice versa.

- **Main obligations of commission agents:**
  - To protect the interests of their principals as if they were their own and to perform their engagement personally. Commission agents may delegate their duties if authorized to do so and may use employees at their own liability.
  - To account for amounts that they have received as commission, to reimburse any excess amount and to return any unsold merchandise.
  - In general, commission agents are not liable to their principal for the performance of the related agreements by third parties, although this risk can be secured by a commission del credere.
  - Commission agents are barred from buying for their own account or for the account of others, without the consent of their principal, the goods that they have been instructed to sell, and from selling the goods that they have been instructed to buy.

- **Commission:** The principal undertakes to pay a commission and to respect the retention and preference rights of the commission agent. The claims of the commission agent against the principal are protected by the right to retain the goods.
4. Differences and similarities between agency agreements and commission agency agreements

- **Main similarity:** In both cases, an individual or legal entity undertakes to pay another compensation for arranging a business opportunity for the former to conclude a legal transaction with a third party, or for acting as the former’s intermediary in concluding the transaction.

- **Main difference:** Agency agreements involve an engagement on a continuous or regular basis, whereas commission agency agreements involve occasional engagements.

5. Franchising

- **Concept:** Franchising is a system for marketing goods and/or services and/or technology. It is based on close, ongoing cooperation between independent undertakings (the franchisor and its individual franchisees). Under this system, the franchisor grants a right to, and imposes an obligation on, its individual franchisees, for a specific market, to pursue the business or commercial activity previously carried out by the former with sufficient experience and success, using the concept and system defined by the franchisor.

In return for a direct and/or indirect consideration, this right entitles and obliges individual franchisees to use the brand name and/or trade or service mark for the goods and/or services, the know-how and the technical and business methods, which must be specific to the business, material and unique, the procedures and other intellectual property rights of the franchisor, backed by the ongoing provision of commercial and technical assistance under, and during the term of, the relevant franchising agreement between the parties, all of the above regardless of any supervisory powers conferred on the franchisor by contract.

Commercial concession or exclusive distribution agreements will not necessarily be considered franchises where an entrepreneur undertakes to acquire products (usually brand products) under certain exclusive rights in an area in order to resell them, again under certain conditions, as well as to offer after-sale services to purchasers of the products.

In addition, the following are not considered to be franchises: (i) the grant of a manufacturing license, (ii) the licensing of a registered trademark to be used in a particular area, (iii) transfers of technology or (iv) a license to use a commercial emblem or logo.

- **Legislation:** The applicable Spanish legislation is (i) Law 7/1996, of January 15, regulating retail trade, regarding the basic conditions for carrying on franchise activity and creating the Register of Franchisors; (ii) Royal Decree 201/2010, of February 26, regulating the exercise of the commercial activity under a franchise arrangement and the communication of information to the Register of Franchisors; and (iii) Royal Decree 378/2003, which refers to Regulation (EC) No. 2790/1999, of December 22, 1999, relating to the application of Article 81(3) of the Treaty to certain categories of vertical agreements and concerted practices and Regulation (EC) no. 1400/2002, of July 31, 2002, for the motor vehicles sector.
7. Other alternatives for operating in Spain

- Registration: In Spain, prior to commencing franchising activities in the territory of more than one Autonomous Community, franchisors must register with a public administrative Register of Franchisors, which is hierarchically subordinate to the Directorate-General for Internal Trade of the Ministry of Economy and Competitiveness. This Register will take charge of registering franchisors at the instance of the Autonomous Community in which they are domiciled, or directly at the request of the party concerned, whether or not it is domiciled in Spain. They must also regularly update the list of franchisors, provide information and issue franchisors with the relevant supporting certificates.

- Types of franchising agreement: Industrial franchising agreements (for the manufacture of goods), distribution franchising agreements (for the sale of goods) and service franchising agreements (relating to the provision of services).

The advantages offered by a franchising agreement include the fact that a franchising agreement is a form of product and/or service distribution that enables a uniform distribution network to be swiftly created with limited investment. Franchising also enables independent traders to set up installations more rapidly and with greater chances of success than if they did so themselves without the know-how and assistance of the franchisor.

Antitrust law requirements must be thoroughly considered when defining the content of franchising agreements.

According to the experts, franchising has seen spectacular growth in Spain in recent years, giving rise to what is now a well-established franchising system.
8. OTHER ALTERNATIVES FOR INVESTING IN SPAIN

8.1. Acquisition of shares of an existing corporation or of a limited liability company with a sale and purchase

The following table summarizes the fundamental legal steps involved in the acquisition of shares of an existing corporation or limited liability company:

<table>
<thead>
<tr>
<th>Formality</th>
<th>S.A.</th>
<th>S.L.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attestation by public authenticating officer</td>
<td>Necessary where required by the bylaws or where so agreed by the parties. On the other hand, the granting of a public document shall grant effectivity before third parties.</td>
<td>Always required.</td>
</tr>
<tr>
<td>Documentation to be provided to the notary</td>
<td>Title to the shares being transferred. Powers of attorney, as the case may be, to appear in the name of the buyer or seller, as appropriate. If the powers of attorney were granted abroad, they must be duly legalized (See requirement 5 under section 4 above). N.I.E./N.I.F. or Spanish national identity card of the buyer and the seller (see section 3 above). Declaration by the beneficial owner, from both the buyer and the seller, if legal entities: a notarial document containing representations by the beneficial owner may be provided or a declaration made in the deed itself (see requirement 4 under section 4 above). Documentary evidence of payment and how the payment was made (specifically, if the price was received before execution of the deed, the amount and whether it was paid by check or any other money transfer document, or by bank transfer).</td>
<td></td>
</tr>
<tr>
<td>Subsequent declaration of the investment to the D.G.C.I.</td>
<td>File of the form D-1A before the Ministry of Economy and Competitiveness. In some cases, prior declaration is required (see Chapter 1, section 8 for further information).</td>
<td></td>
</tr>
<tr>
<td>Payment of transfer tax and stamp tax under the “transfers for consideration” heading</td>
<td>See Chapter 3.</td>
<td></td>
</tr>
<tr>
<td>Costs</td>
<td>Depending on the Spanish public authority before which the acquisition is made: • Notary fee: the scale applicable for the formation of a branch is also applicable here. • Fee of Spanish Consul abroad: the fee will be determined in the legislation in force on notarial fees.</td>
<td></td>
</tr>
</tbody>
</table>
8. Other alternatives for investing in Spain

8.2. Acquisition of the shares of a corporation or of a limited liability company via a capital increase

The following table provides a summary of the main legal formalities to acquire the shares of a corporation (“S.A.”) or of a limited liability company (“S.L.”) via a capital increase at the company in which the investment is made.

The new shares can be issued at par value or at a higher value (never at below their par value). The difference between the par value and the issue value is the share premium. The share premium must be paid up in full when subscribing to the new shares. In relation to the par value of the shares, at corporations at least 25% of the par value must be paid up and at limited liability companies, the par value must paid up in full.
8. Other alternatives for investing in Spain

Table 16

FORMALITIES TO BE PERFORMED FOR THE ACQUISITION OF REAL ESTATE

<table>
<thead>
<tr>
<th>Formality</th>
<th>S.A.</th>
<th>S.L.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certification by a public authenticating official</td>
<td>Necessary.</td>
<td>Necessary.</td>
</tr>
</tbody>
</table>

**Formalización**

- The new shareholder/s must hold a foreigners/taxpayer identification number, Spanish ID card (see section 3 above).
- Execution before a notary of a public deed notarizing the corporate resolutions of the shareholders’ meeting of the company in which the investment is made, resolving to increase capital.

The minutes, the book of minutes, notarial testimony of the foregoing or a certificate of the resolutions of the capital increase must be delivered to the Notary.

Pursuant to 108 of the Commercial Registry Regulations, the following individuals may have the corporate resolutions notarized:

a) The individual with authority to certify the corporate resolutions.

b) The sole shareholder or the company’s directors in relation to decisions of the sole shareholder recorded in minutes.

c) Any member of the managing body whose appointment is in force and registered at the Commercial Registry, where they have been expressly authorized to do so in the resolutions to be notarized.

d) Any person who has been authorized for this purpose pursuant to the power of attorney public deed registered at the Commercial Registry.

The deed evidencing the appearing person’s power to have the corporate resolutions notarized on behalf of the company in which the investment is made must be provided to the notary.

Any powers of attorney executed abroad must be duly legalized (see requirement 5 of section 4.1 above).

The beneficial owner of the company in which the investment is made must be specified in the deed and a document evidencing the payment made must be attached to it.

- Filing the deed at the Commercial Registry for the place where the company in which the investment is made has its registered office.

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21 The capital increase must have been resolved by the shareholders’ meeting of the company in which the investment is made, and that resolution must be recorded in the minutes of the shareholders’ meeting of that company.

If there are any preemptive subscription rights, the holders of those rights must first waive those rights.

22 This will depend on the company’s managing body:

- If it is a board of directors: the secretary or deputy secretary of the board of directors, with the countersignature of the board chairman or deputy chairman.
- If it is a sole director: the sole director.
- If it consists of more than one director acting severally: any of the directors acting severally.
- If it consists of joint directors: the directors that have the power to represent the company jointly.

23 This procedure is not applicable to have the resolutions notarized where it is based on the minutes or notarial certification of the minutes.
### 8. Other alternatives for investing in Spain

**Table 16 (Cont.)**

**FORMALITIES TO BE PERFORMED FOR THE ACQUISITION OF REAL ESTATE**

<table>
<thead>
<tr>
<th>Formality</th>
<th>S.A.</th>
<th>S.L.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Subsequent declaration of the investment at the Directorate-General for Trade and Investments (DGCI)</strong></td>
<td>Filing of form D-1A at the Ministry of Economy and Competitiveness. In some cases, it will also be necessary to submit a prior declaration (see section 8 of Chapter 1 for more information).</td>
<td></td>
</tr>
<tr>
<td><strong>Transfer and stamp tax under the “Corporate transactions” heading</strong></td>
<td>• At present, business restructuring transactions, company formations, capital increases, shareholder contributions in general and certain transfers of the place of effective management or registered office are not taxed.</td>
<td></td>
</tr>
<tr>
<td><strong>Costs</strong></td>
<td>Depending on the public authenticating official that certifies the transfer:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Notarial fees: the scale envisaged for the formation of a subsidiary is also applicable.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Fee scale for the Spanish consul abroad: the fee amount is established in legislation in force on notaries’ fee scales.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Registration fees: see section 4.2.</td>
<td></td>
</tr>
</tbody>
</table>
8. Other alternatives for investing in Spain

8.3. Acquisition of real estate located in Spain

Set out below are the main legal formalities to be performed for the acquisition of real estate located in Spain:

<table>
<thead>
<tr>
<th>Formality</th>
<th>Acquisition of real estate located in Spain</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Attestation by public authenticating officer</strong></td>
<td>The acquisition must be formalized before a Spanish notary or Spanish Consul abroad.</td>
</tr>
<tr>
<td><strong>Documentation to be provided to the notary</strong></td>
<td>• Title to the property.</td>
</tr>
<tr>
<td></td>
<td>• Powers of attorney, as the case may be, to appear in the name of the buyer or seller, as appropriate.</td>
</tr>
<tr>
<td></td>
<td>• If the powers of attorney were granted abroad, they must be duly legalized (See requirement 5 under section</td>
</tr>
<tr>
<td></td>
<td>4 above).</td>
</tr>
<tr>
<td></td>
<td>• N.I.E./N.I.F. or Spanish national identity card of the buyer and the seller.</td>
</tr>
<tr>
<td></td>
<td>• Declaration by the beneficial owner: a notarial document containing representations by the beneficial owner</td>
</tr>
<tr>
<td></td>
<td>may be provided or a declaration made in the deed itself (see requirement 4 under section 4 above).</td>
</tr>
<tr>
<td></td>
<td>• Documentary evidence of payment and how the payment was made (specifically, if the price was received before</td>
</tr>
<tr>
<td></td>
<td>execution of the deed, the amount and whether it was paid by check or any other money transfer document,</td>
</tr>
<tr>
<td></td>
<td>or by bank transfer).</td>
</tr>
<tr>
<td><strong>Subsequent declaration of the investment to the</strong></td>
<td>In some cases, prior declaration is required (see Chapter 1, section 8 for further information).</td>
</tr>
<tr>
<td><strong>D.G.C.I.</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Taxes</strong></td>
<td>See Chapter 3.</td>
</tr>
<tr>
<td><strong>Registration at the relevant Property Registry</strong></td>
<td>The acquisition must be registered at the relevant Property Registry as soon as the deed of acquisition has</td>
</tr>
<tr>
<td></td>
<td>been formalized and the related taxes have been paid in order to ensure that acquirer’s property rights are</td>
</tr>
<tr>
<td></td>
<td>duly protected.</td>
</tr>
<tr>
<td><strong>Costes</strong></td>
<td>• Notary fee: the scale applicable for the formation of a subsidiary is also applicable here.</td>
</tr>
<tr>
<td></td>
<td>• Fee of Spanish Consul abroad: the fee will be determined in the legislation in force on notarial fees.</td>
</tr>
<tr>
<td></td>
<td>• Property Register fees: For guidance purposes, the official rates amount to €24 if the value of the property</td>
</tr>
<tr>
<td></td>
<td>does not exceed €6,010, thereafter rates of between 0.175% and 0.02% are applied. The total fee is capped and</td>
</tr>
<tr>
<td></td>
<td>may not exceed €2,181.</td>
</tr>
</tbody>
</table>
9. Dispute resolution

9. DISPUTE RESOLUTION

9.1. Court proceedings

Organic Law 6/1985, of July 1, regulates the constitution, operation and governance of courts and tribunals in Spain. For judicial purposes, the State is organized on a territorial basis into municipalities, judicial districts, provinces and Autonomous Communities, in which the Justices of the Peace, the Courts of First Instance, Examining Courts, Commercial Courts, Criminal Courts, Judicial Review Courts, Labor Courts, Provincial Appellate Courts and High Courts have jurisdiction. The Supreme Court and the National Appellate Court (Audiencia Nacional) (the latter only for certain specific matters) have jurisdiction over the entire national territory. The Supreme Court is the highest judicial authority with the sole exception of the guarantee of constitutional rights, which are safeguarded by the Constitutional Court.


Although the Spanish litigation system should be considered as a continental law system, certain features of the Civil Procedure Law have their roots in the common law system. An example of this is the predominance of the oral proceeding. The Civil Procedure Law reduces formalities and promotes more expeditious proceedings and a quicker and more efficient response from the courts.

Spain has signed numerous bilateral and multilateral treaties on the recognition and enforcement of foreign judicial decisions.

9.2. Arbitration

Arbitration is increasingly viewed as a genuine alternative for the settlement of commercial disputes. Companies, aware of the greater speed, efficiency and flexibility of arbitration compared to action before the courts, are increasingly keen to turn to arbitration. Furthermore, Spanish courts increasingly support arbitration, both in terms of arbitration agreements and the enforcement of arbitral awards.

Arbitration Law 60/2003 of December 23, 2003 (the “Arbitration Law”) enables both individuals and companies to enter into agreements to submit to one or more arbitrators any disputes that have arisen or may arise on matters the regulation of which is not subject to any legal restrictions. The Arbitration Law is almost entirely inspired by the UNCITRAL Model Law on International Commercial Arbitration. Royal Decree 231/2008, of February 15, regulates the Consumer Arbitration System for disputes arising between consumers or users and companies in relation to the legal or contractual rights granted to consumers.

The Arbitration Law allows for the granting of interim measures by the arbitrators. This power does not oust the jurisdiction of the courts under the Civil Procedure Law to grant interim measures while
a decision is pending in an arbitration proceeding. The jurisdiction of courts and arbitrators to grant interim measures is concurrent, meaning that parties can request interim measures from the arbitral tribunal or from the court, without distinction.

Under the Arbitration Law it is possible to enforce an arbitral award handed down in Spain even where proceedings to set aside the award have already been brought. In this case, a court may only stay the enforcement of the award if the party against whom the award is being enforced posts security for an amount equal to the amount set out in the award, plus any potential damages arising from the delay in enforcement of the award.

The grounds for refusal to recognize or enforce arbitral awards contained in the Arbitration Law are based on the contents of the UNCITRAL Model Law, which in turn is based almost in its entirety on the New York Convention of 1958. Spain has ratified the New York Convention of 1958 and the European Convention on International Commercial Arbitration signed in Geneva on April 21, 1961.

Spain’s adherence to a Model Law-inspired arbitration regime makes international arbitration in Spain more accessible for cross-border practitioners and their clients. The Arbitration Law brings Spain ever closer to becoming an ideal venue for international arbitration, particularly where Latin American interests are involved, given Spain’s convenient geographical location in southern Europe, its competitive cost structure compared to other European jurisdictions and its linguistic and cultural ties to Latin America.
## Table 18
### TABLE SUMMARIZING THE TAX TREATMENT GIVEN TO THE VARIOUS WAYS OF INVESTING IN SPAIN

<table>
<thead>
<tr>
<th>Ways of investing in Spain</th>
<th>Tax treatment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incorporation of a subsidiary Corporation S.A. / Limited liability company S.L.</td>
<td>General corporate income tax rules pursuant to the Corporate Income Tax Law (See Chapter 3, section 2.1 for more detailed information).</td>
</tr>
<tr>
<td>Formation of a branch</td>
<td>Nonresident income tax, with permanent establishment (See Chapter 3, section 2.3.1 for more detailed information).</td>
</tr>
</tbody>
</table>
| Economic Interest Grouping (E.I.G.), Temporary Business Alliance (U.T.E.) and joint venture | Special rules for economic interest groupings, both Spanish and European, and temporary business alliances. In particular:  
  • The part of the tax base attributable to members resident in Spain is not subject to corporate income tax.  
  • The tax bases, tax credits and tax relief and the withholdings and prepayments of E.I.G.s or U.T.E.s are attributed to the resident members.  
  • Dividends distributed to nonresident members of Spanish EIGs or UTEs will be taxed pursuant to the Nonresident Income Tax Law and to the tax treaties signed by Spain. (See Chapter 3, sections 2.1.10 for more detailed information). |
| Distribution agreement | The tax treatment of nonresidents in Spain who contract with Spanish distributors will depend on whether or not said contracting gives rise to the existence of permanent establishment in Spain for the nonresidents:  
  • If a permanent establishment exists, it will be taxed according to the rules on permanent establishments stipulated under the Nonresident Income Tax Law or in the applicable tax treaties (See Chapter 3, section 2.3.1 for more detailed information).  
  • If a permanent establishment does not exist, it will be taxed pursuant to the same legislation, but in connection with taxpayers without a permanent establishment; in general, the income will be characterized as business profits, which are usually exempt where a tax treaty can be applied. (See Chapter 3, section 2.3.2 for more detailed information) |

Whether or not a permanent establishment exists will depend, in general, on whether the nonresident is deemed to be distributing in Spain through a fixed place of business.
### TABLE SUMMARIZING THE TAX TREATMENT GIVEN TO THE VARIOUS WAYS OF INVESTING IN SPAIN

<table>
<thead>
<tr>
<th>Ways of investing in Spain</th>
<th>Tax treatment</th>
</tr>
</thead>
</table>
| **Agency agreement**                        | The tax treatment is similar to that stipulated for distribution agreements. Whether or not a permanent establishment exists will depend, in general, on whether or not the agent has powers to bind the nonresident.  
  • Where a permanent establishment exists (See Chapter 3, 2.3.1 for more detailed information).  
  • Where a permanent establishment does not exist, (See Chapter 3, section 2.3.2 for more detailed information). |
| **Commission agency agreement**             | The tax treatment is similar to that stipulated for distribution and agency agreements. Whether or not a permanent establishment exists will depend, in general, on whether or not the commission agent has powers to bind the nonresident principal.  
  • Where a permanent establishment exists (See Chapter 3, section 2.3.1 for more detailed information).  
  • Where a permanent establishment does not exist (See Chapter 3, section 2.3.2 for more detailed information). |
| **Franchising agreement**                   | The payment made by the franchiser to the franchisee may be given the following treatments, depending on the services provided and rights granted:  
  • It may be treated in part as a royalty and in part as business profits or  
  • It may be treated only as a royalty.  
  (See Chapter 2, section 7.6 for more detailed information). |
This guide was researched and written by Garrigues on behalf of ICEX-Invest in Spain.

This guide is correct to the best of our knowledge and belief at the date indicated below. It is, however, written as a general guide, so it is necessary that specific professional advice be sought before any action is taken.

Madrid, March 2015
The Spanish tax system is modern and competitive. The tax burden in Spain, (i.e. tax and social security contributions as a percentage of GDP), is almost seven points lower than the average ratio for the EU-27 zone.

The Spanish Tax Agency (AEAT), who has been recognized as one of the most innovative and efficient tax agencies in the world, offers the taxpayers a wide range of services in order to facilitate the fulfillment of their tax obligations. For this purpose, among other measures, it provides the taxpayers with computer programs that facilitate the preparation of their tax forms and promotes its electronic submission and payment, by using an electronic official certificate.

Finally, it also remarkable the recent tax reform carried out to simplify the tax obligations of taxpayers and, in general, to reduce their tax burden.

The main taxes of the Spanish tax system are analyzed in this chapter.
Guide to business in Spain

Tax system

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2. Central Government taxes ....................................................... 4
3. Special regimes of certain Autonomous Communities ..................... 95
4. Local taxes ........................................................................... 100
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1. Introduction

1. INTRODUCTION

The Spanish tax system is modern and competitive. The Spanish State Tax Agency has distinguished itself through its technological leadership within the Government. It is one of the most modernized European tax agencies, in the vanguard of offering electronic public services, such as the possibility of obtaining tax certificates or filing tax returns online.

A tax reform has recently been carried out to simplify the tax obligations of taxpayers and, in general, to reduce their tax burden. That reform has had a particular impact on corporate income tax, personal income tax, nonresident income tax, value added tax, Canary Island general indirect tax and some special and excise taxes.

The Spanish tax system comprises three kinds of taxes: “impuestos” (true taxes), “tasas” (dues and fees) and “contribuciones especiales” (special levies). The “tasas” and “contribuciones especiales” are collected in return for a public service provided by the authorities or for any type of benefit as a result of public works or services.

In Spain taxes are levied by the Central Government, by the Autonomous Communities (regional) and by local authorities. Due to their relevance, this chapter concentrates exclusively on the taxes levied by the Central Government, including those administered and collected by regional and local authorities, albeit with a brief reference to the special regimes applicable in the Canary Islands, the Basque Country and Navarra.
2. Central government taxes

2. CENTRAL GOVERNMENT TAXES

National taxes in Spain can be classified as follows:

- Direct taxes:
  - On income:
    - Corporate income tax.
    - Personal income tax.
    - Nonresident income tax.
  - On assets (affecting only individuals):
    - Inheritance and gift tax.
    - Wealth tax.

- Indirect taxes:
  - Value added tax (VAT).
  - Transfer tax and stamp tax.
  - Excise taxes.
  - Customs duties on imports.
  - Tax on insurance premiums.

Given its importance, we refer herein to the formal reporting obligation relating to assets and rights held abroad (introduced for the first time for year 2013), the breach of which affects personal income tax and corporate income tax.

2.1. Corporate income tax

The regulation of corporate income tax, for fiscal years starting on or after January 1, 2015 (also referred to herein as “fiscal year 2015”) is contained in Corporate Income Tax Law 27/2014, of November 27, recently approved, for which the relevant regulations are pending implementation (current Regulations, yet not derogated, are the ones approved by Royal Decree 1777/2004, of July 30). In this section, we describe the corporate income tax provisions pursuant to this new Law (which entails at times a radical change in the former provisions) although we refer, where we consider it to be of interest, to the transitional regimes established for this purpose. For a better understanding of the provisions in force prior to fiscal year 2015, we refer the reader to previous Doing Business publications.

1 Exhibit I: Tax incentives for investment.
2. Central government taxes

From the different amendments introduced by the tax reform, should be highlighted the reduction of the tax rates (28% in 2015 and 25% for fiscal years commencing in 2016 onwards) and the creation of two new reserves (capitalization reserve and tax base leveling-out reserve), which allow for the reduction of the taxation. Specifically, the capitalization reserve allows for the reduction of the tax base reduction in an amount equal to 10% of the increase in their shareholders’ funds.

Moreover, in order to clarify subsequent references to the concepts of economic activity and asset-holding entity, the new Law 27/2014 has established the following definitions:

1. “Economic activity” shall mean the organization on one’s own account of means of production and/or human resources, with the aim of participating in the production or distribution of goods or services.

2. An “asset-holding entity” which, therefore, does not perform an economic activity, shall mean an entity in which more than half of its assets are formed by securities or which are not assigned, on the terms of the preceding letter, to an economic activity.

The key features of Spanish corporate income tax are as follows:

2.1.1. Tax Residence

The key factor in determining the application of corporate income tax is “residence”. A company is deemed to be resident in Spain for tax purposes if it meets any of the following conditions:

- It was incorporated under Spanish law.
- Its registered office is located in Spain.
- Its place of effective management is in Spain.

The Tax Administration can presume that entities, theoretically resident in tax havens or territories with zero taxation, have their tax residence in Spain when their principal assets directly or indirectly consist of property situated in Spain or rights that are exercised there, or when their principal activity is carried on in Spain, unless it is proven that their administration and effective management are handled in another country or territory and that their establishment and operation in Spain are for valid and compelling commercial and business reasons and not just as a means of managing securities or assets.

In principle, in order to determine which entities reside in tax havens, the provisions of article 1 of Royal Decree 1080/1991, of July 5 (listing 48 territories classified as such) will apply. Up to now it is

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2 The following States are currently deemed tax havens: Emirate of the State of Bahrain, Sultanate of Brunei, Gibraltar, Anguilla, Antigua and Barbuda, Bermuda, Caiman Islands, Cook Islands, Dominican Republic, Granada, Fiji, Falkland Islands, Isle of Man, Mariana Islands, Islands of Guernsey and Jersey, Mauritius, Montserrat. Republic of Nauru, Solomon Islands, San Vicente and Grenadines, Santa Lucia, Turks and Caicos Islands, Republic of Vanuatu, British Virgin Islands, United States Virgin Islands, Hashemite Kingdom of Jordan, Lebanese Republic, Republic of Liberia, Principality of Liechtenstein, Macao, Monaco, Sultanate of Oman, and Republic of the Seychelles.
established by regulation that “tax haven” status will not apply to countries or territories on the list which have signed with Spain a tax treaty with an exchange of information provision (or exchange of information agreement) expressly indicating that the country or territory will no longer be considered a tax haven once the treaty applies and for its duration.

However, starting on or after January 1, 2015, and after the new wording of transitional provision two of Law 36/2006 (which has established new criteria to determinate whether a country shall be qualified or not as a “tax haven”), the Directorate-General of Taxes has published a report on the validity of the current list of tax havens, eliminating the possibility of automatic updating of the list.

In other words, the output of a country from the above mentioned list will not be automatically where the countries signs a tax treaty with Spain, a tax information exchange agreement or a tax treaty with an exchange of information clause, but the updating of this list shall be done expressly according to the criteria contained in the previous mentioned transitional provision two of Law 36/2006, in force starting on January 1, 2015. Those criteria are as follows:

1. The existence with that country or territory of an international tax treaty with an exchange of information clause, a tax information exchange agreement or the Convention on Mutual Administrative Assistance in Tax Matters of the OECD and of the European Council, amended by the 2010 Protocol, which is applicable.
2. The absence of an effective exchange of tax information.
3. The results of the peer reviews carried out by the Global Forum on Transparency and Exchange of Information for Tax Purposes.

In turn, the status of “zero-taxation country or territory” will be given to countries or territories which do not apply a tax identical or analogous to personal income tax, corporate income tax or nonresident income tax. For a tax to be considered identical or analogous to the above taxes, its purpose must be to tax income and/or gains, regardless of whether the subject-matter of the tax consists of the income and/or gains, the revenues or their indicative elements.

In addition, where Spain has signed a tax treaty, a tax of an identical or analogous nature which applies for the above-mentioned purposes will be deemed to exist.

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3 It is also established that the obligatory contributions effectively made by an individual to a public welfare system to cover contingencies similar to those covered by the Social Security will be classified as an identical or substantially similar tax for personal income tax purposes, as long as the country or territory concerned does not levy a tax that is identical or substantially similar to personal income tax.
Lastly, it is considered that effective exchange of information exists with a country or territory if the following applies to such country or territory:

- A tax treaty which includes an exchange-of-information provision (provided that there are no express limitations on its scope).

- A tax information exchange agreement (provided that its fitness for the above purposes has been expressly established).

- The results of the peer reviews carried out by the Global Forum on Transparency and Exchange of Information for Tax Purposes.

In the event of a conflict of residence, the provisions of Spain’s tax treaties with other countries will, where applicable, prevail.

Resident companies are taxed on their worldwide income. Taxable income includes all the profits from business activities, income from investments not relating to the regular business purpose, and income derived from asset transfers.

However, regard should also be had to the provisions of Spain’s tax treaties with other countries which, where applicable, may influence the determination of the taxation in Spain.


2.1.2. Taxable income

There are three methods for determining taxable income: the direct assessment method, the indirect assessment method and the objective assessment method.

Under the direct assessment method (which is generally applicable), taxable income is defined as the difference between period revenues and period expenses. Taxable income is based on the income disclosed in the financial statements. However, as a result of applying accounting principles, at times the book income cannot be deemed representative of the taxpayer’s actual contribution capacity and, thus, must be adjusted by applying the tax principles established in the legislation of the tax. In general, the expenses relating to the business activity are deductible if they are properly accounted for and justified, and if the timing of recognition rules have been fulfilled.

The main criteria for calculating the taxable income are as follows:

2.1.2.1. Revenue and expense allocation criteria

The tax principles for allocating revenues and expenses to determine taxable income generally coincide with accounting principles. In this regard, the method generally applicable for recognizing revenue and expenses is the accrual method.
As an exception, expenses recorded in a fiscal year subsequent to their accrual, or revenues recorded in a fiscal year prior to their accrual, are allocated for tax purposes in the year in which they are recorded, provided that this does not give rise to lower taxation than that which would have applied had the expenses and revenues been accounted for using the accrual method.

Furthermore, the Law establishes measures which temporarily limit the deductibility of certain losses. In this regard:

1. The losses generated on intra-group transfers of shares or holdings, property, plant and equipment, investment property, intangible fixed assets, debt securities and permanent establishments abroad are not deductible until the period in which (i) the assets are transferred to third parties not related to the group, (ii) the acquiring or transferring entities cease to form part of the group, (iii) the assets are deregistered by the acquirer, or (iv) the activity of the establishment ceases or the transferred company is dissolved (except in the case of a restructurings carried out under the special mergers regime).

   In the case of amortizable assets, the loss may be included in all cases during the remaining useful life, applying the amortization method used up to that date.

   In the specific case of transfer of shares or holdings or of permanent establishments, the losses obtained on the intra-group transfer will be reduced by the amount of income obtained on the transfer to third parties, unless it is proven that income has actually been taxed at a tax rate of at least 10%.

2. The impairment losses in respect of items of property, plant and equipment, investment property and intangible fixed assets, including goodwill, equity instruments and securities representing debt (fixed income) are not deductible. These losses will be deductible, among other cases:
   a) In the case of nonamortizable assets forming part of the property, plant and equipment, in the tax period in which they are transferred or deregistered.
   b) In the case of amortizable assets forming part of the property, plant and equipment, in the tax periods of remaining useful life, applying the amortization method used in relation to those assets, unless they are transferred or deregistered previously, in which case they will be included on occasion of that transfer or deregistration.

3. The following shall be included in the tax base, with the limit of 70% of the positive tax base prior to their inclusion and to the offset of tax losses:
   a) The provisions recorded for impairment of receivables or other assets derived from insolvency of debtors not related to the taxpayer, and which are not subject to the timing rule to be

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4 For 2015, for taxpayers whose revenues, calculated according to article 121 of Value Added Tax Law 37/1992, of December 28, have exceeded the amount of €6,010,121.04 during the 12 months preceding the first day of the tax period in year 2015, they will be included in the tax base with the following limits:
   - 50% of the tax base, where in those 12 months, the net revenues are €20 million or more but less than €60 million.
   - 25% of the tax base, where in those 12 months, the net revenues are €60 million or more.
2. Central government taxes

discussed further below, according to which the provisions for insolvency of receivables for which at least six months have elapsed since their maturity can be deducted.

b) The provisions or contributions to employee welfare systems and, as the case may be, pre-retirements that have not been deductible.

These provisions, for the application of that limitation, must have generated deferred tax assets ("DTA").

Additionally, in the aforementioned cases, it is permitted to convert the DTAs into claims against the tax authorities, where a series of requirements are met.

In any case, companies are permitted to use special allocation methods other than the accrual method (e.g. deferred price transactions).

If allocation criteria other than those expressly envisaged in the tax regulations are applied, the rationale for their use must be duly supported and they must be approved by the tax authorities.

Lastly, it must be borne in mind that the principle of accounting recognition must be fulfilled, that is, all expenses must be recorded for accounting purposes in order to be deductible (except in certain cases, such as unrestricted depreciation).

For tax purposes, in the event of conflict between an accounting principle and a tax principle, the latter will prevail.

2.1.2.2. International “fiscal transparency” regime (“Controlled Foreign Corporations” provisions)

Under corporate income tax rules, tax is levied on the “obtainment of income”; however, under fiscal transparency rules, tax is levied not on the income actually obtained by the taxpayer but on that obtained by a nonresident entity in which the taxpayer owns a holding, where certain circumstances are present. In short, it is an attribution (pass-through) regime.

The fiscal transparency regime applies where:

- The taxpayer (Spanish company) holds 50% or more of the capital stock, equity, voting rights or results of the nonresident company.

- The tax (corporate income tax or similar) paid by the nonresident on the attributable net income must be less than 75% of that which would have been payable under Spanish regulations.

The attribution must be done by the entity that meets the holding requirement mentioned, where it owns a stake directly or indirectly in the nonresident entity. In this last case, the income to be attributed will be that relating to the indirect holding.
2. Central government taxes

The income to be attributed will be the following:

1. Case I: Total attribution of the income of the nonresident entity:

   The whole income shall be attributed where the nonresident entity does not have an organization of material and human resources to carry out its activity, even where its transactions are recurrent. However, the income of the nonresident entity composed of dividends, shares in income or gains on the transfer of holdings shall not be attributed if they derive from an entity in which the nonresident owns a stake, directly or indirectly, of more than 5%, and this holding is owned for at least one year, where the following requirements are simultaneously met:

   — The former directs and manages its shareholding.
   — That entity has the relevant organization of material and human resources, and the investee is not deemed an asset-holding entity.

   This case will not apply if it is proven that the transactions are carried out with the material and human resources existing at an entity not resident in Spain and belonging to the same group, on the terms of article 42 of the Commercial Code, irrespective of its residence and of the obligation to prepare consolidated financial statements, or that its formation and operations are based on valid economic reasons.

2. Case II: Partial attribution of the income of the nonresident entity:

   In the rest of cases in which the transparency rules apply, the taxpayer must attribute in its tax base only the income of the nonresident entity deriving from:

   a) Ownership of real estate or rights in rem, unless such real estate is used for a business activity or is assigned to another nonresident group company (as defined in Article 42 of the Commercial Code).

   b) Share in equity and transfer to third parties of capital (with certain exceptions, such as financial assets held in order to meet statutory requirements, etc.).

   c) Capitalization and insurance operations, the beneficiary of which is the entity itself.

   d) Industrial and intellectual property, technical assistance, movable property, image rights and lease or sublease of businesses or mines, on the terms established in subarticle 4 of article 25 of Law 35/2006.

   e) Transfer of the assets or rights mentioned in the previous cases and which generate income.

   f) Financial derivative instruments, except those designated to cover a specifically identified risk derived from the performance of economic activities.

   g) Lending, financing, insurance and service activities (except services directly related to export activities) with related resident companies which incur deductible expenses. The attribution
2. Central government taxes

does not take place if more than 50% of this type of income derives from transactions carried out with unrelated entities.

In any case, under this form of transparency, there is no attribution either of the income specified in letters b and e, where it derives from an entity in which the nonresident owns a direct or indirect holding of at least 5% and this holding is owned for at least a year, where the following two requirements are met simultaneously:

— The former engages in directing and managing its investment.
— That entity has the relevant organization of material and human resources, and the investee is not deemed an asset-holding entity.

There is also an exception to the applicability of the regime for the income addressed in letters a. to f. above (i.e., the exception does not apply to the income mentioned in letter g) when the attributable income is below 15% of the total income obtained by the nonresident entity.

Moreover, the income mentioned in letters a to g shall not be attributed where it relates to non tax-deductible expenses of entities resident in Spain.

Other rules to be taken into account are the following:

a) The amount of taxable income to be attributed will be determined in proportion to the share in income and, in the absence thereof, in proportion to the share in the capital, equity or voting rights and will be determined in accordance with the principles and criteria established in the corporate income tax legislation. In any case, the attributed net income can never be higher than the total net income of the nonresident entity.

b) The exchange rate for the attribution of income will be that in force at the nonresident entity’s fiscal year-end.

c) The income shall be attributed in the period running from the last day of the nonresident entity’s fiscal year (which may not exceed 12 months for this purpose).

d) Given that tax is levied on the “attribution” of income, the dividends relating to the attributed income are not taxed.

e) A tax credit can be taken on the amount of corporate income tax (or similar) actually paid by the nonresident entity and its subsidiaries as defined by law (in proportion to the net income attributed) and the tax actually paid as a result of the distribution of dividends. The limit for this tax credit is the Spanish tax. However, no tax credit is permitted for taxes paid in tax havens.
2. Central government taxes

f) Where the investee is resident in a country or territory classed as a tax haven it will be presumed that:

(i) The amount paid by the nonresident entity in relation to a tax identical or similar to corporate income tax, is lower than the 75% that would have been applicable in accordance with the corporate income tax rules.

(ii) The income obtained by the investee arises from the mentioned classes of income.

(iii) The income obtained by the investee is 15% of the acquisition cost of the holding.

These assumptions are refutable.

g) Lastly, the international fiscal transparency rules will not apply where the entity not resident in Spain is resident in another Member State of the European Union (EU), where the taxpayer evidences that (i) the formation and operation of the nonresident is based on valid economic reasons and (ii) it performs business activities.

2.1.2.3. Market price valuation

As a general rule, assets must be valued under the methods provided in the Commercial Code. Despite this fact, any variations in their value caused by applying the fair value method will have no effect for tax purposes if they do not have to be taken to income.

Notwithstanding the above, in certain cases, market valuation (i.e. valuation on an arm’s-length basis) must be applied for tax purposes. This method is applicable to:

- Donated assets.
- Assets contributed to entities and the securities received in exchange.
- Assets transferred to shareholders in the event of dissolution, the withdrawal of shareholders, capital reductions with refund of contributions, paid-in surplus and the distribution of income.
- Assets transferred as a result of mergers, absorptions and full or partial spin-offs.
- Assets acquired through swap transactions.
- Assets acquired as a result of exchanges or conversions.

It should be noted that current legislation provides for a tax neutrality regime when certain of the transactions described above are carried out as part of a corporate reorganization.

Transactions between related entities must be valued at arm’s-length value, i.e., the value which would have been agreed between independent persons or entities under normal market conditions.
Accordingly, the Tax Administration may verify both whether the valuation given to transactions performed between related entities is in accordance with arm’s-length value and the nature and legal classification of the transactions, and where appropriate, the Tax Administration may make the adjustments which it considers appropriate to any transactions subject to corporate income tax, personal income tax or nonresident income tax that have not been valued at arm’s length. The Tax Administration’s valuation of a certain transaction will also be applicable to the other related persons or entities involved in that transaction, and under no circumstances will the Administration’s valuation give rise to taxation of higher income for corporate income tax, personal income tax or nonresident income tax, than that actually derived from the transaction for the persons or entities as a whole that performed it.

As a result of this kind of inspection, therefore, the Administration can make the so-called primary and secondary adjustments. The primary adjustment is the traditional adjustment derived from the difference between the price agreed and the market value in a specific transaction. For example, if a Spanish entity receives management services from its Belgian parent and pays some fees which exceed the market value of those services, the primary adjustment will entail a reduction (for tax purposes) in the expense of the Spanish company (and, thus, an increase in the taxable base subject to corporate income tax). At the same time, if the parent company were Spanish rather than Belgian, it would reduce its income subject to corporate income tax.

The secondary adjustment is a consequence of the recharacterization of the income/expense attributed as a result of the primary adjustment, according to its actual nature. In the previous example, as the subsidiary is paying the parent a price higher than the market price, it may be considered to be distributing a dividend. Thus, along with the nondeductibility of the dividend (deriving from the primary adjustment) another charge could arise, for example, in the same case, a withholding on the payment of the dividends (unless some benefit applies that prevents that withholding), on account of the parent company’s nonresident income tax.

Related entities must make available to the Tax Administration the documentation established by regulations and with the minimum content specified in the tax regulations. Based on those regulations, the documentation must include (i) on the one hand, data on the group to which the taxpayer belongs, detailing its structure; the various entities making it up; the nature, amounts and flows of related-party transactions; and, in general, the group’s transfer pricing policy, and (ii) on the other hand, the appropriate supporting documentation of the taxpayer, identifying the entities related to it, including a comparability analysis, as well as justification for the valuation method chosen, and any documentation supporting the valuation of its transactions.

This documentation will have a simplified content in relation to the related persons or entities whose net revenues are below €45 million, where none of the following transactions are involved:

1. Those carried out by personal income taxpayers, in the pursuit of a business activity to which the objective assessment method applies, with entities in which they or their spouses, ascendants or
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descendants, individually or jointly with each other, own a holding of 25% or more in the capital or equity.

2. Transactions consisting of the transfer of businesses.

3. The transfer of securities or shares representing holdings in the equity of all kinds of entities not admitted to listing on any of the regulated securities markets, or which are admitted to listing on regulated markets located in countries or territories classed as tax havens.

4. Transactions involving real estate.

5. Transactions involving intangible assets.

The documentation will not be required in relation to the following transactions:

1. In general, transactions carried out between entities forming the same consolidated tax group.

2. Transactions carried out by economic interest groupings with their members or with other entities forming the same consolidated tax group.

3. Transactions carried out in the context of public offerings or tender offers.

4. Transactions carried out with the same related person or entity, where the consideration payable as a whole does not exceed a market value of €250,000.

Lastly, the legislation regulates the procedure for advance pricing arrangements.

The legislation establishes a penalty regime for failing to provide, or for providing incomplete, inaccurate or false data in such documentation, and the fact that the arm’s length value shown in the documentation provided by the taxpayer (it is presumed that the arm’s-length value must be shown by such documentation) differs from that declared in corporate income tax, personal income tax or nonresident income tax returns, will also constitute a serious tax infringement. In principle, therefore, incorrectly valuing a transaction is not an infringement but applying a price other than that deriving from the documentation furnished is an infringement.

For the purposes analyzed, the legislation contains a list of the persons or entities that are deemed to be related, which include, among others: (a) an entity and its shareholders, (b) an entity and its directors, except in relation to compensation for the performance of its functions, (c) two entities of a same group, (d) an entity and another entity in which the first-mentioned entity has an indirect holding of at least 25 percent of the capital stock or equity, (e) an entity resident in Spain and its permanent establishments abroad, or an entity not resident in Spain and its permanent establishments in Spain.

Added to these cases are a number of others where dealings are established between entities or between them and individuals pursuant to kinship relationships with family members of the shareholders or directors of these entities.
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It should be borne in mind that a group exists where an entity exerts or can exert control over another entity or other entities pursuant to Article 42 of the Commercial Code, regardless of where they have their residence or of the obligation to prepare consolidated financial statements.

Lastly, in order to determine the market value between related entities, the OECD methods apply, and it is up to the company to choose one or another according to the transaction to be valued:

- Comparable uncontrolled price method.
- Cost plus method.
- Resale price method.
- Profit split method.
- Transactional net margin method.
- Other generally accepted valuation methods and techniques that comply with the arm’s length principle.

The legislation envisages the possibility for taxpayers to submit to the Tax Administration a proposal for valuing its transactions with related entities based on market conditions. If the proposal is approved by the Tax Administration, such valuation is valid for tax purposes for a maximum period of four tax years.

2.1.2.4. Deductibility of finance costs

Traditionally, in Spain, finance costs have been deductible with the restrictions derived (solely) from the rules on transfer pricing (set forth above) and thin capitalization (which, moreover, only applied to cases of excess net debt with nonresident related entities not resident in the EU, except for those residing in a tax haven). However, the thin capitalization rule has recently been replaced by a general limitation on the deductibility of finance costs (regardless of whether or not the debt is with related parties). Specifically, net finance costs exceeding the limit of 30% of operating income (EBITDA) of the year are not deductible, net finance costs being deemed to mean the finance costs exceeding the revenue derived from the transfer to third parties of own capital and accrued in the tax period; however, net finance costs of the tax period of up to €1,000,000 will be deductible in all cases.

That limitation will apply in proportion to the duration of the tax period, so that in tax periods with a duration of less than a year, the limit will be weighted according to the duration of the tax period with respect to the year.

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5 Advance pricing arrangements may also be reached in connection with contributions for research, development and technological innovation or management expenses and in connection with the part of management expenses that may be allocated to a permanent establishment in Spain of a nonresident entity.
This limitation on the deductibility of finance costs has not been introduced as a permanent difference; rather, the net finance costs that cannot be deducted in a tax period due to the limitation mentioned can be deducted in the tax periods ending in the immediately successive 18 years, together with those of the period in question, subject to the overall limit of 30% of the operating income of the period. That 18-year time limit has been eliminated starting in 2015.

Moreover, if the net finance costs of the period do not reach such 30% limit, that deficiency will be included for computing the limit for the tax periods ending in the immediately successive 5 years.

Apart from the above-mentioned limit, the finance costs derived from debts used to acquire holdings in the capital or equity of any kind of entity shall be deductible with the additional limit of 30% of the acquirer’s operating income, without including in that operating income that relating to any entity that merges with the former in the 4 years following that acquisition, where the merger is not carried out under the tax neutrality regime established for this type of transaction.

The finance costs which are nondeductible due to the application of the foregoing paragraph will be deductible in the following tax periods with the same limit and the general limit indicated initially.

The additional limit will not apply in the tax period in which the holdings in the capital or equity of entities are acquired if the acquisition price is at least 70% financed with debt. Moreover, this limit will not apply in the following tax periods where the amount of that debt is reduced, from the time of the acquisition, by at least the proportional part relating to each of the 8 following years, until the debt reaches 30% of the acquisition price.

2.1.2.5. Changes in residence, cessation of business by permanent establishments, transactions performed with persons or entities resident in tax havens

The tax law requires the inclusion in the tax base of the difference between the value per books and the normal market value of the assets which are owned by a resident entity that transfers its place of residence abroad (exit tax).

However, in the case mentioned above, the taxpayer can request a postponement in the payment of the exit tax where the assets are transferred to a Member State of the EU or of the European Economic Area with which there is effective exchange of tax information on the terms established in Law 36/2006, of November 29, 2006, on tax fraud prevention measures.

2.1.2.6. Inventory valuation

There are no special tax rules regarding the valuation of inventory. Accordingly, all inventory valuation methods (FIFO, acquisition cost or weighted average cost) applicable for accounting purposes are also acceptable for tax purposes.

The same rules apply to inventory depreciation.
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2.1.2.7. Value adjustments

1. Depreciation

   a) Depreciation qualifies as a deductible expense only if it is effective and is recorded in the accounts (with certain exceptions).

   b) There are various general tax depreciation methods:

   - **Straight-line depreciation**: this is the method most commonly applied by taxpayers of the tax and consists of depreciating assets (irrespective of the type) on a straight-line basis, that is, applying a certain percentage to the cost of the assets each year, according to percentages within a range for each type of asset. The new tax law has simplified the straight-line depreciation tables, establishing that for assets in respect of which the depreciation rate has been modified by application of the new tables contained in the new law, those new rates will apply to the asset’s net value for tax purposes.

   That range of depreciation rates runs between what is known as the “minimum straight-line depreciation rate”, which is the rate applied according to the useful life of the asset, and the “maximum straight-line depreciation rate”. In this regard, for example, in general, computer hardware can be depreciated at a rate of between 12.5% (minimum rate, according to a maximum useful life of 8 years) and 25% (maximum rate).

   The official depreciation tables regulate the useful life (called the “maximum period”) which is that which will determine the minimum and maximum depreciation rates (called the “maximum straight-line rate”), and the taxpayer can elect any straight-line depreciation rate falling between the maximum and minimum (without the use of one or another being deemed a change in depreciation method).

   Traditionally, these depreciation tables (regulated in the Regulations of the tax) have been organized by sectors and economic activities, with a last group defined for “common assets”. Now the new Law has established some new depreciation tables according to type of assets and without distinguishing between sectors, and the Law refers to the implementation of regulations which are pending approval.

   The use of the depreciation rates contained in the official tables relieve the taxpayer from having to prove the actual depreciation.

   Traditionally there have been special rules for assets used on a daily basis in more than one ordinary shift of work and for assets acquired second hand. It will be necessary to wait until regulations are implemented to see how those assets are treated.

   - **Declining-balance depreciation**: Under this method, which is permitted for all assets except buildings, furniture and household goods, depreciation can be shifted to the early years of the asset’s useful life, when the actual depreciation may be greater by applying a coefficient to the declining balance of the asset’s book value.
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- **Sum-of-the-years'-digits method:** This system is also permitted for all assets except buildings, furniture and household goods, and the sum of the digits is determined on the basis of the depreciation period established in the official tables.

- **Other depreciation methods:** Companies which, for technical reasons, wish to depreciate their assets at different rates than those fixed by the official tables and also wish to obviate the uncertainties involved in proving the “actual” depreciation, can seek prior approval from the tax authorities for special depreciation plans with such annual rates of depreciation.

- **Special case:** Amortization of intangible assets

  In general, intangible assets are amortized by the same methods as those applicable to tangible fixed assets throughout their economic life, a distinction being made between:

  - Intangible assets with a definite useful life: Prior to 2015, the Law in force established that they could be amortized with the maximum annual limit of one-tenth of their amount (10%), provided that certain requirements were met. Under the new Law, however, they will be amortized in all cases according to their useful life. Nonetheless, this new regime does not apply to intangible assets acquired before January 1, 2015.

  - Intangible assets with an indefinite useful life, which may be amortized with the maximum annual limit of one-twentieth their amount (5%). In this case, the deduction is not conditional upon its being recorded in the statement of income. The deducted amounts will reduce the value of the assets for tax purposes. This amortization will not apply to intangibles acquired before January 1, 2015 (for which the amortization will be **10%**). For fiscal years commencing in 2015, that annual maximum limit has been reduced to 2%.

  - Intangible assets recorded in respect of goodwill, which can be amortized with the maximum annual limit of one-twentieth their amount (5%). In fiscal year 2015, that maximum annual limit is reduced to 1%. In this case, as in the preceding case, the deduction is not conditional on its accounting recognition on the statement of income. The deducted amounts will reduce, for tax purposes, the value of the intangible assets.

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6 In order for that amortization to be deductible, (i) the intangible assets with an indefinite useful life must have arisen pursuant to an acquisition for a consideration and (ii) the acquirer and the transferor must not form part of a group of companies according to the criteria established in article 42 of the Commercial Code, regardless of residence and of the obligation to prepare consolidated financial statements. If both entities form part of a group, the deduction will apply with respect to the acquisition price of the fixed assets paid by the transferor when it acquired them from unrelated persons or entities.
c) Temporary limitation on depreciation: For tax periods commencing in 2013 and 2014, the accounting depreciation of tangible and intangible assets (only those with a definite useful life) and of investment property was only deductible up to 70% of that which would have been tax deductible in accordance with the aforementioned rules (the limitation also applies to assets apply the financial lease regime).

The accounting depreciation that was not tax deductible by application of this limit will be deducted starting from the first tax period commencing in 2015, on a straight-line basis over a period of 10 years or during the useful life of the asset, at the election of the taxpayer.

As the nondeductible depreciation will be deducted at the new tax rates applicable since 2015 (which are lower than those applicable in preceding years), the new Law has established a deduction for taxpayers subject to tax at the standard rate (or that established for newly formed entities) which are affected by the aforementioned limitation on the deductibility of depreciation (the 70% mentioned above). Specifically, these taxpayers could take an additional deduction in the gross tax payable of 5% of the amounts included in the tax base for the reversal of the amounts not depreciated for tax purposes (2% in tax periods starting in 2015).

d) Finance lease contracts

Finance lease contracts (provided by finance entities, as legally defined) for movable assets must have a minimum term of two years, and those for real estate must have a minimum term of ten years, and the annual charge corresponding to the depreciation of the cost of the asset must remain the same or increase over the term of the lease.

Lease payments (interest plus the portion of principal relating to the cost of the asset) are deductible. Land and other non-depreciable assets will be deductible in the portion relating to interest. However, the ceiling on the deductibility of the depreciation cost of the asset is twice the maximum depreciation rate per the official tables.

e) Accelerated depreciation

In recent years, various cases of accelerated depreciation have been regulated to encourage investment and maintain jobs (this latter requirement subsequently disappearing). This incentive, which was established for tax periods commencing in 2010 2011, 2012, 2013, 2014 and 2015 and did not require the accounting recognition of the depreciation, also applied for certain investments made through financial lease contracts and for investments relating to new assets contracted through construction work agreements or investment projects (on certain conditions).

However, this incentive for new investments was eliminated and only applies for new assets acquired up to March 31, 2012, which could continue to be depreciated without restriction from that date onwards but with certain limitations (transitional) in periods commencing
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in 2012, 2013, 2014 and 2015 (meaning that in those periods, the depreciation is accelerated but not unrestricted):

- 40% of the tax base prior to depreciation and offset of tax losses, for assets that are (due to their acquisition date) subject to unrestricted depreciation with the job maintenance requirement.

- 20% of the tax base prior to depreciation and offset of tax losses, for assets that are (due to their acquisition date) subject to the incentive without the job maintenance requirement.

Taxpayers that have, in turn, amounts outstanding inclusion subject to unrestricted depreciation with and without job maintenance (i) can apply the 40% limit until the outstanding amounts relating to the assets in which the incentive required job maintenance have been exhausted, and (ii) once those amounts have been exhausted, they can apply in the same period the outstanding amounts relating to the rest of assets entitled to unrestricted depreciation up to the amount of the difference between the 20% limit and the amounts already taken in the same tax period.

Nonetheless, the legislation in force starting in 2015 has established a new case of unrestricted depreciation for new tangible assets, where the unit value does not exceed €300, and up to the limit of €25,000 in the tax period.

The amounts taken as unrestricted depreciation will reduce the value of the depreciated assets for tax purposes.

2. Impairment of assets

The law establishes various rules regarding the deductibility or nondeductibility of the impairment of assets:

a) Impairment losses on receivables for bad debts

This provision covers the foreseeable losses in the realizable value of accounts receivable. The deductibility of this provision is subject to certain requirements. Under these requirements, the only method applicable is the individual balance method, whereby the status of each receivable is individually analyzed. The deduction of this provision is subject to satisfaction of any of the following tests:

- The balance must be more than six months past due.
- The debtor must have been held to be in insolvency.
- The debtor must have been taken to court for the criminal act of dealing in assets to defraud creditors.
- The obligations must have been claimed in court or the subject of a lawsuit or arbitration proceeding.
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In any case, losses to cover the risk of bad debts of related entities cannot be recorded for tax purposes in respect of receivables from related parties, unless the related parties concerned are subject to insolvency proceedings and the judge has established the liquidation phase in accordance with the Insolvency Law.

Similarly, bad debts will not be deductible where the debtor is a public entity or where sufficient guarantees have been provided, unless they are the subject of arbitration or court proceedings regarding their existence or amount.

Losses to cover the risk of foreseeable bad debts by financial institutions are subject to specific rules.

We recall that, as stated in the section on the timing of allocation rules, the law establishes time limits on the deductibility of certain insolvency provisions.

b) Impairment of securities representing holdings in the capital of entities

- Holdings in listed entities: Impairment losses in respect of securities representing holdings in the capital or equity of all kinds of entities are not deductible.

- Holdings in unlisted entities: In this case, until recently, the law established a regime for determining the deductibility of these holdings. However, for tax periods commencing on or after January 1, 2013, the tax deductibility of the impairment losses relating to holdings in the capital or equity of both resident and nonresident entities in Spain has been eliminated.

A transitional regime is also established, consisting mainly of the following rules:

- Any impairment losses that were tax deductible in periods commencing before January 1, 2013 must be included in the corporate income tax base.

- The aforementioned impairment losses must be included therein regardless of whether or not there have been other nondeductible value adjustments for impairment.

- That inclusion in the tax base must be done in the period in which the value of the investee’s equity is recovered, in the proportion relating to the holding and with the limit of that excess.

- In the case of entities listed on a regulated market, the impairment losses recorded and deducted in periods commencing before January 1, 2013, shall be reversed in the tax base of the period in which the accounting recovery takes place.

- Impairment losses relating to investments in entities resident in countries or territories deemed to be tax havens are not deductible in any case, unless those entities are resident in an EU Member State and the taxpayer evidences that the formation and operations of the nonresident entity are based on valid economic reasons and it performs business activities.
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c) Impairment losses on the value of property, plant and equipment, investment property and intangible assets, including goodwill, equity instruments and securities representing debt (fixed income).

In this respect, we refer to the comments contained in the section relating to the timing of allocation rules.


The general rule in relation to provisions is that they are deductible provided they are correctly accounted for. However, the legislation establishes certain exceptions. In this regard, the following expenses are not deductible:

- Those resulting from implied or tacit obligations.
- Those relating to long-term compensation and other personnel benefits, except for the contributions of the sponsors of pension plans subject to certain requirements.
- Those concerning the costs of performing contracts which exceed the expected financial returns from them.
- Those resulting from restructurings, unless they refer to legal or contractual obligations, not merely tacit obligations.
- Those relating to the risk of sales returns.
- Personnel expenses relating to payments based on equity instruments, used as a form of employee compensation, paid in cash.

Any expenses that are not deductible according to the foregoing list will be included in the tax base for the tax period in which the provision is used for its intended purpose.

In relation to certain provisions, the deductibility is conditional on the fulfillment of certain requirements:

- Expenses relating to environmental actions are deductible if they are incurred under a plan prepared by the taxpayer and accepted by the tax authorities.

- Expenses relating to insurance reserves made by insurance companies are deductible, to the extent of the minimum amounts established in applicable legislation. With that same limit, the amount recorded in the fiscal year for the equalization reserve will be deductible for purposes of determining the tax base, even where it has not been included in the income statement (provisions for outstanding premiums or fees will not be consistent, for the same balances, with provisions to cover foreseeable bad debts).

- In addition, the expenses relating to risks resulting from repair and inspection warranties (and ancillary expenses for sales returns) are deductible, up to the limit resulting from applying
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to the sales with outstanding warranties at the end of the tax period the average warranty expenses as a percentage of total sales under warranty in the current and the two preceding tax periods.

2.1.2.8. Nondeductible expenses:

The law contains an exhaustive list of nondeductible expenses. In particular, apart from the intragroup finance costs mentioned above (which are nondeductible in 2012), the following expenses are not deductible:

- Amounts representing a remuneration of equity. In this case, since the enactment of Law 27/2014, the remuneration relating to participating loans provided by entities that form part of the same group of companies, according to article 42 of the Commercial Code, have the consideration of remuneration of equity. In these cases, however, the income will not be reportable at the lender\(^7\). This limitation on the deductibility does not apply to loans provided before June 20, 2014.

- Those derived from accounting for corporate income tax.

- Criminal and administrative fines and penalties, surcharges in the enforcement period and surcharges for late filing without prior requirement.

- Gambling losses.

- Free gifts and gratuities (although gifts to certain non-profit entities or those involving assets registered in the Register of Assets of Cultural Interest, or assets aimed at contributing to the conservation of assets of cultural interest or to the performance of activities of general interest, will give right to a tax credit of 35% of the gift, up to a limit of 10% of the net taxable income of the year).

Expenses for hospitality to customers or suppliers, those derived from customs and practices with the company’s personnel, those incurred to promote the sale of goods or services, or those correlated to income will not be deemed gifts or gratuities.

However, the deductibility of the expenses for hospitality to customers or suppliers will be limited to 1% of the company’s revenues of the tax period.

The remuneration of directors for the pursuit of their senior management functions or others derived from an employment contract shall not be deemed gifts or gratuities either.

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\(^7\) In particular, the new Law establishes that the remunerations regarding equity loans given by entities considered as a part of the same group of entities according to the criteria set out in article 42 of the Commerce Code, regardless of the residence and the obligation of filing consolidated financial statements, will be considered as dividends or shares in exempt profits, unless they generate a deductible expense in the payer entity.
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- Expenses derived from procedures that infringe the legal system.

- Expenses for services relating to transactions performed directly or indirectly with individuals or entities resident in designated tax havens or paid through individuals or entities resident in tax havens, unless the taxpayer can prove that the expense arose from a transaction effectively performed.

- Finance expenses accrued in the tax period derived from debts with group entities, according to the definition established in article 42 of the Commercial Code, regardless of residence and of the obligation to prepare consolidated financial statements, incurred to acquire, from other group entities, holdings in the capital or equity of any kind of entity, or to make contributions to the capital or equity of other group entities, unless the taxpayer evidences valid economic reasons for carrying out those transactions.

- Expenses deriving from the termination of an ordinary or special employment relationship, or of a commercial relationship of directors or board members of the company exceeding the amount of €1,000,000 per recipient or, if higher, the amount established as obligatory in the Workers’ Statute, in its implementing legislation or, as the case may be, in the legislation regulating the enforcement of judgments, which does not include that established pursuant to an agreement, accord or contract. Those expenses will not be deductible even if they are paid in several tax periods.

- Expenses relating to transactions carried out with related persons or entities which, as a consequence of a different tax classification given to them by the parties, do not generate income, or generate exempt income or income subject to a nominal tax rate below 10%.

2.1.2.9. Capital gains and losses:

By contrast with other countries, Spanish corporate income tax treats income resulting from the transfer of assets in the same way as other income. Accordingly, such income is generally added to (or deducted from) regular business income to determine the taxable income, it not being possible, since 2015, to reduce taxation by applying the tax credit for reinvestment of extraordinary income.

For fiscal years prior to 2015, special rules were envisaged for determining income resulting from real estate transfers to take into account the declining value of money (i.e., inflation). Under these rules, the acquisition cost and the annual depreciation were corrected by applying certain coefficients, with particularities according to the taxpayer’s indebtedness. However, that measure has been eliminated in the new legislation applicable for fiscal years commencing on or after January 1, 2015.
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2.1.2.10. Income derived from stakes in a SICAV (open-end investment company)

The income derived from a capital reduction or distribution of additional paid-in capital by the shareholders (corporate income taxpayers) of a SICAV is subject to the following treatment:

- **Capital reductions**: the shareholders of the SICAV must include in their corporate income tax base the total amount received in the capital reduction, limited to the increase in the redemption value of the shares since their acquisition or subscription until the moment of the capital reduction. The shareholders will not be entitled to apply any tax credit because of this transaction.

- **Distributions of additional paid-in capital**: the shareholders must include in their tax base the total amount obtained in the distribution, without being able to apply any tax credit in this connection.

This regime will also apply to the shareholders of collective investment undertakings equivalent to SICAVs and registered in another Member State of the European Union (and, in any case, it will apply to the companies covered by Directive 2009/65/EC of the European Parliament and of the Council, of July 13, 2009, on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities).

2.1.2.11. Capitalization reserve

The new Law (which, as indicated, comes into force for periods commencing on or after 1 January 2015), brings in a significant new provision whereby the part of the taxpayer’s profit that is appropriated to a restricted reserve (capitalization reserve) will not be taxable, without imposing any requirement to invest this reserve in any specific type of asset. The purpose of this measure is to encourage business capitalization by boosting equity and thus incentivize the clean-up of balance sheets and an increase in competitiveness.

Specifically, taxpayers subject to the 25% tax rate, new companies and entities taxed at the 30% rate will be entitled to a tax base reduction equal to 10% of the increase in their shareholders’ funds, provided the following requirements are met:

1. The amount of the increase in the entity’s shareholders’ funds must be maintained for a five-year period as from the end of the tax period in which the reduction is applied, unless the entity reports losses.

2. A reserve must be posted in the amount of the reduction and must be reflected in the balance sheet as a totally separate, appropriately named item, and will be restricted for the period stated in the preceding letter.

The reduction right may not in any event exceed 10% of the positive tax base for the tax period prior to this reduction, before including impairment charges on receivables or other assets due to possible debtor insolvency and before offsetting tax losses.

Nonetheless, if the tax base is insufficient to apply the reduction, the outstanding amounts may be applied in tax periods ending in the immediately successive two-year period following the end of
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the tax period in which the reduction right is generated, together with any reduction that may be generated in the relevant tax period and subject to the same limit.

2.1.2.12. Income from the assignment of the right to use or exploit certain intangible assets (patent box)

This is a tax base reduction scheme applicable to income from the assignment of the right to use or exploit certain intangibles. Specifically, only 40% of income obtained by assigning to third parties the right to use or exploit know-how (industrial, commercial or scientific), patents, drawings or models, plans, formulae or secret procedures is taxable. This income also includes amounts generated by transferring intangibles of this kind where the transfer takes place between entities not forming part of a group of companies as defined in Article 42 of the Code of Commerce.

The scheme excludes from this benefit income from the assignment of the right to use or exploit, or from the transfer of, brands, literary, artistic or scientific works (including cinematograph films), personal rights able to be assigned, such as image rights, computer software and industrial, commercial or scientific equipment.

In this case, income is specifically defined as the positive difference between income from the assignment of the right to use or exploit the assets and the amounts that are deducted in respect of amortization, impairment and expenses for the year directly related to the intangible.

In order to apply this benefit:

- The assigning entity must have created the assets assigned in a proportion of at least 25% of their cost.

- The assignee must use the intangibles in a business activity; additionally, the results of such use must not lead to the supply of goods or provision of services by the assignee generating tax deductible expenses in the assigning entity, provided, in this latter case, that the entity is related to the assignee.

- The assignee may not reside in a country or territory where there is zero taxation or that is classed as a tax haven, unless it is located in a European Union Member State and evidence of valid economic reasons for the transactions is provided.

- Where the contract for the assignment of use of the intangible asset includes the provision of other incidental services by the assigning entity, the services and related consideration must be identified to ensure that the reduction only covers income derived strictly from the assignment of use of the intangibles.

- The assigning entity must keep the necessary accounting records to determine direct and indirect income and expenses pertaining to the intangible assets assigned.
The scheme provides for the possibility, before the transactions are completed, of applying to the Administration for an advance pricing agreement in connection with the income from the assignment and the expenses, as well as the income generated on the transfer.

An advance agreement classifying the assets in the categories included in the incentive may also be requested before the transactions are completed.

There is a transitional regime for assignment of the right to use or exploit intangibles completed before the effective date of Law 14/2013 (27 September), whereby the assignments will be governed by the wording of the law prior to that date.

2.1.2.13. Offset of tax losses

As from 2015, tax losses generated may be offset against future taxable income subject to no time limit (which also applies to amounts pending offset at the start of 2015). Nonetheless, the offsetting of these tax losses is subject to the following quantitative limit:

1. As from periods commencing in 2017, tax losses may only be offset up to 70% of the positive tax base prior to offset, although offset is permitted up to €1 million in any event. The prior tax base is calculated using the taxpayer’s tax base before applying the adjustments to reflect the new capitalization reserve.

2. The limit will be 60% for periods commencing in 2016.

3. In 2015 (as occurred in 2012, 2013 and 2014), the offsetting of tax losses only by entities with a volume of business exceeding €6,010,121.04, for the 12-month period prior to the start of a tax period commencing in 2015, is limited as follows:

<table>
<thead>
<tr>
<th>Net revenues</th>
<th>Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Between €20 million and €60 million</td>
<td>50%</td>
</tr>
<tr>
<td>Above €60 million</td>
<td>25%</td>
</tr>
</tbody>
</table>

Entities that do not fulfill these requirements will not be subject to an limit on the offsetting of tax losses in 2015.

However, it is still not possible to offset tax losses against taxable income obtained in prior tax periods.
2. Central government taxes

Moreover, in order to avoid the acquisition of dormant or quasi-dormant companies with negative tax bases, the Law establishes measures that preclude their use. Specifically, tax losses cannot be offset in the following circumstances:

1. The majority of share capital or rights to a share of the entity’s profits have been acquired by a related person or entity (or related group of persons or entities) following the end of the tax period to which the tax losses relate.

2. The acquiring persons or entities had an interest of less than 25% at the end of the period to which the tax losses relate.

3. The target entity is in any of the following circumstances:
   a) It did not carry on any business activity during a three-month period prior to the acquisition.
   b) It will perform a business activity in the two-year period following the acquisition that is different from or additional to the activity previously performed.
   c) It is a holding company.
   d) It has been struck off the companies index for failing to file the return for three consecutive tax periods.

Finally, the Administration’s right to verify tax losses will become statute barred 10 years as from the day following the end date of the period stipulated for the filing of the tax return or self-assessment for the tax period in which the right to apply the tax losses was generated.

Once that period has elapsed, the taxpayer must demonstrate that the tax losses that it intends to offset are admissible and their amount by exhibiting the assessment or self-assessment and the accounting records, including evidence that they have been filed at the Mercantile Registry during that period.

2.1.2.14. Tax restatements

A voluntary tax restatement was provided for periods commencing in 2003, at a rate of 5% on the restated amount.

The recent tax rate cuts (referred to below) entail that depreciation charges on the restated assets will be included in the tax base at a lower rate than the rate applied on restatement, when a 5% rate was paid, as indicated. In order to mitigate this negative effect, taxpayers subject to the general rate (or the rate applicable to new companies) which availed themselves of the fixed asset restatement will be entitled to a tax credit equal to 5% of the amounts included in the tax base in respect of depreciation charges on the net increase in value resulting from the restatement. This tax credit will be 2% for tax periods commencing in 2015.

These tax credits will be subsequently applied to other applicable tax credits and allowances. Amounts not deducted because tax payable is insufficient may be deducted in subsequent tax periods.
2. Central government taxes

2.1.3. Tax rates

The standard corporate income tax rate in Spain is 28% in 2015 and 25% for fiscal years commencing in 2016 onwards (from 2008 to 2014, it was 30%).

However, special rates are applicable to certain entities such as listed collective investment institutions including real estate investment funds (1%), certain cooperatives (20%) or entities engaging in oil and gas research and exploitation activities (30%).

In the case of listed corporations for investment in the real estate market (known as SOCIMIs), the tax rate is 19%. However, entities whose shareholders owning a holding of more than 5% in their capital are taxed on the distributed dividends at a rate of at least 10% will be subject to a tax rate of 0%.

With regard to entities formed on or after January 1, 2013, they will be taxed at the rate of 15% in the first tax period in which they have taxable income and in the next tax period.

2.1.4. Tax credits, withholdings and prepayments

Under this heading we will describe the main tax credits applicable for 2015.

2.1.4.1. Investment tax credits

1. Research and development and technological innovation tax credit.

   A tax credit for 25% of the expenses incurred in the tax period on scientific R&D. If the investment made exceeds average expenses incurred in the previous two years, 42% is applied to the excess.

   In addition, a tax credit for 12% of the expenses incurred in the tax period on technological innovation.

   Research and development (R&D) expenses included in the tax credit base must relate to activities carried out in Spain or in any member state of the European Union or of the European Economic Area.

   R&D expenses will include the amounts paid by the taxpayer individually or in collaboration with other entities to fund the conduct of R&D activities in Spain or in any member state of the European Union or of the European Economic Area.

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8 For tax periods starting on or after January 1, 2011, the following tax credits have been abolished: tax credit for export activities; tax credit for investment in vehicle navigation and tracking systems; tax credit for adaptation of vehicles for the disabled and for daycare centers for employees’ children; tax credit for professional training expenses (save for those derived from expenses to familiarize employees with the use of new technologies); and tax credit for company contributions to employee pension plans. Effective for fiscal years 2015 onwards, the tax credit for reinvestment of extraordinary income has been abolished.
2. Central government taxes

The amount of the base for this tax credit is reduced by 100% of any subsidies received to encourage such activities.

An 8% tax credit is also established for investments in tangible fixed assets and intangible assets (excluding investment in buildings or land) to be used exclusively for R&D activities.

This tax credit will be incompatible with the other tax credits provided for the same investments in the chapter on Tax Credits to encourage the pursuit of certain activities.

The entities subject to the general tax rate of 35%, or to the 25%-30% scale established for taxpayers included in the special regime for entities of a reduced size, will have the following options in relation to these tax credits:

— The tax credits generated in tax periods commencing on or after January 1, 2013, can be applied, optionally, without limit of tax payable but with a 20% discount in their amount.

— Nevertheless, even in case of insufficient tax payable (before applying the aforementioned discount), it is established the possibility to request the payment of the tax credits from the tax authorities through the tax return in cash. The payment of these amounts will not be deemed a refund of amounts incorrectly paid over and will not generate the right to collect late-payment interest even if it is made more than six months after the request.

In the case of the tax credit for technological innovation activities, the tax credits taken or collected cannot exceed as a whole €1 million annually. Moreover, an overall limit of €3 million is established for R&D and technological innovation tax credits taken or collected as indicated. Both limits will apply to the entire group of companies in the case of entities forming part of a group according to the criteria of article 41 of the Commercial Code.

In order to apply the two mechanisms, the following requirements must be met:

— At least one year must elapse following the end of the tax period in which the tax credit was generated without its having been taken.

— The average workforce or, alternatively, the average workforce assigned to R&D and technological innovation activities must be maintained from the end of the tax period in which the tax credit was generated until the end of the period indicated in the following point.

— In the 24 months following the end of the tax period for which the tax return recorded the use or collection of the tax credit, an amount equal to the tax credit used or collected must be assigned to R&D or technological innovation activities or to investments in property, plant or equipment or intangible assets used exclusively in those activities, excluding real estate.

— The taxpayer must have obtained a reasoned report on the classification of the activity as R&D or technological innovation, or an advance pricing agreement on the expenses and investments relating to those activities.
2. Central government taxes

2. Other Tax credit for investments.

— Tax credit for investments in film productions, audiovisual series and live performing and musical arts productions:

A 20% tax credit is provided for the first €1 million of the tax base and an 18% tax credit for the excess in respect of investments in Spanish productions of feature films and fiction series, animated films or documentaries that allow the construction of a physical support prior to industrial production, subject to a maximum tax credit of €3 million.

The tax credit calculation base is formed by the production cost and expenses incurred to obtain copies, and advertising and promotion expenditure, incurred by the producer, up to 40% of the production cost; at least 50% of the calculation base must relate to costs incurred in Spain. Grants received to finance the investments will reduce the tax credit calculation base.

In the case of co-productions, the amounts will be calculated for each co-producer based on their share of the co-production.

Producers entered in the Ministry of Education, Culture and Sport’s Register of Film Companies that execute a foreign feature film production or audiovisual productions that allow the construction of a physical support prior to industrial series production will qualify for a 15% tax credit on expenditure incurred in Spain, provided the amount incurred is at least €1 million.

Finally, costs incurred to produce and exhibit live performing and musical arts productions will qualify for a tax credit equal to 20% of direct artistic, technical or promotional costs, less grants received.

The tax credit generated in each tax period may not exceed €500,000 per taxpayer.

— Tax credit for hiring workers with disabilities:

This tax credit is calculated per person/year of increase in the average number of disabled persons hired by the taxpayer during the tax period, with respect to the average number of disabled employees in the immediately preceding period. In particular, the tax credit applies in two tranches:

- €9,000 per person with a degree of disability of between 33% and 65%.
- €12,000 per person with a degree of disability exceeding 65%.

There are no requirements regarding the indefinite term or otherwise of the employment contracts or the fulltime employment.

The employees that entitle the taxpayer to take this tax credit will not be computed for purposes of the provision establishing unrestricted amortization with job creation.
2. Central government taxes

— Tax credits for job creation:

Entities that hire their first worker under the indefinite-term employment contract established to support entrepreneurs can take a tax credit of €3,000, provided that the worker is under the age of 30.

Notwithstanding that tax credit, entities can take a second tax credit where they meet the following requirements:

- Their workforce is less than 50 when they sign indefinite-term employment contracts for the support of entrepreneurs.
- They hire unemployed persons receiving unemployment benefits.
- In the twelve months following the commencement of the employment relationship, there is, in respect of each worker, an increase in the total average workforce of the entity of at least one unit with regard to that existing in the previous twelve months.
- The hired worker had received unemployment benefits for at least three months before the commencement of the employment relationship. For these purposes, the worker will provide the entity a certificate from the Public National Employment Service on the amount of the benefits yet to be received at the envisaged date of commencement of the employment relationship.

Specifically, the amount of this second tax credit (which will only apply with respect to contracts formalized in the tax period and until the workforce reaches 50 employees) will be 50% of the lower of the following amounts:

- The amount of the unemployment benefits yet to be received by the worker at the contract date.
- The amount of twelve monthly unemployment benefits recognized to the worker.

3. Common rules on tax credits for investment.

In general, the abovementioned tax credits (for Spanish motion picture or audiovisual productions, R&D and technological innovation, hiring workers with disabilities and, creating jobs) are limited to 25% of the gross tax payable, net of domestic and international double taxation tax credits and of tax allowances (the limit will be raised to 50% where the R&D and technological innovation tax credit relating to expenditure and investment in the tax period exceed 10% of the gross tax payable).

However, any excess can be carried forward for use in the following 15 years (in the case of the tax credit for scientific research and technological innovation activities, the period will be up to 18 years). The period will be counted from the first subsequent year in which an entity reports taxable income in the case of newly-incorporated entities or entities offsetting prior year’s losses by effective contributions of new resources.
2. Central government taxes

The Administration’s right to verify the tax credits envisaged in this chapter will become statute barred 10 years as from the day following the end date of the period stipulated for the filing of the tax return or self-assessment for the tax period in which the right to apply the tax credits was generated.

Once that period has elapsed, the taxpayer must demonstrate that the tax credits that it intends to offset are admissible and their amount by exhibiting the assessment or self-assessment and the accounting records, including evidence that they have been filed at the Mercantile Registry during that period.

2.1.5. Treatment of double taxation

The former tax credit and exemption scheme stipulated in the previous regulations based on the type of income has been amended substantially by the new Law, which brings in a general exemption scheme for significant shareholdings applicable in both the domestic and international arenas. To summarize:

1. With respect to dividends or shares of profits from shareholdings in resident entities, the previous law provided a tax credit that could amount to 100% or 50% of gross tax payable on the tax base for the income, based on the shareholding percentage and the time during which the shares were owned. An exemption scheme is now brought in, in parallel to the existing scheme, for shareholdings in non-resident companies, as described below.

2. Income from the transfer of shares in resident companies was subject to the specific provision that a tax credit could be applied in certain cases in respect of reserves accumulated by the investee during the shareholding period. The exemption now applies to this income, also in line with the scheme provided for foreign source income where certain requirements are fulfilled, this being the main new provision as regards the treatment of double taxation.

3. Dividends and income from shareholdings in non-resident entities and income obtained by permanent establishments abroad will remain exempt, although some changes have been made to related requirements.

4. Finally, the new Law maintains the tax credit for both (i) income and capital gains obtained abroad and (ii) foreign source dividends and shares of profits, as an alternative to an exemption. The new Law also maintains the possibility of deducting tax paid abroad when the tax base includes income obtained and taxed outside Spain, up to the limit of the tax that would have been payable in Spain had the income been obtained in Spain; it is now possible to deduct in the tax base the excess foreign tax that cannot be applied as a tax credit because the above-mentioned limit is exceeded.

Under this method, the entire amount of income or capital gains obtained abroad by companies resident in Spain is included in the tax base in order to calculate the tax. The resulting amount of tax (tax payable) may be reduced by the amount of taxes actually paid abroad, up to the limit of the tax that would have been paid on the income had it been obtained in Spain. The
2. Central government taxes

calculation is made by included in the tax base all the income obtained in the same country, except in the case of permanent establishments, where the income obtained by each permanent establishment is grouped together.

When the tax base includes dividends or shares in profits paid by an entity not resident in Spain, the tax actually paid by this entity on the profits out of which the dividend is paid (underlying tax) is deducted. This tax credit, combined with the one referred to in the preceding paragraph, may not exceed the gross tax that would have been payable in Spain on the income.

The underlying tax is deductible subject to no level-related limit (i.e. the subsidiaries, their subsidiaries and so on). The requirements to apply the tax credit are that the direct or indirect shareholding in the non-resident entity must be at least 5% and must have been held uninterruptedly for one year prior to the dividend distribution (or the one-year period must be completed following the distribution), and the resident entity must include in its tax base the profits of the entity that pays out the dividend.

Amounts not deducted because gross tax payable is insufficient may be offset over the immediately following 10-year period.

2.1.5.1. Dividends and income from shareholdings in entities resident in Spain: exemption scheme

In order to apply the new exemption referred to previously, the shareholding in the resident entity (i) must be at least 5% or, alternatively, must have a value of over €20 million; and (ii) must be held uninterruptedly for at least one year, also taking into account any period during which the shareholding was owned by a different group company as defined in Article 42 of the Code of Commerce.

In the event that the investee obtains dividends, shares of profits or income from the transfer of shares or equity interests in other entities, representing over 70% of its income, the exemption for such amounts may be applied provided the taxpayer has an indirect interest in those entities that fulfills the above-mentioned percentage or acquisition value and ownership requirements.

The income percentage (70%) will be calculated based on the consolidated profit for the year in the event that the directly-owned entity is a parent of a group as defined in Article 42 of the Code of Commerce and issues consolidated annual accounts.

In the case of an indirect interest in subsidiaries at level 2 or lower, the minimum 5% interest must be observed, unless the subsidiaries meet the requirements of Article 42 of the Code of Commerce to form part of the same group of companies as the directly owned entity and issue consolidated financial statements.

The indirect shareholding requirement will not be applicable when the taxpayer demonstrates that the dividends or shares of profits received have been included in the tax base of the directly- or indirectly-owned entity as dividends, shares of profits or income from the transfer of shares or
equity interests in entities not entitled to apply an exemption scheme or a double taxation tax credit scheme.

The creation of this exemption scheme for income obtained from the transfer of shares in entities resident in Spain for periods commencing on or after 1 January 2015 entails (i) the elimination of the rules that were designed to avoid double taxation on the distribution of dividends since such double taxation no longer exists because the income obtained by the transferring parties will be exempt in the future; and (ii) the continued application of those rules on a transitional basis for cases in which the shares were acquired prior to that date and the former owners of the shares had actually paid tax in Spain as a result of the transfer of those shares.

2.1.5.2. Dividends and income from shareholdings in non-resident entities: exemption scheme

In order to apply the exemption, in addition to fulfilling the percentage and ownership requirements referred to in the previous section, the investee entity must have been subject to and not exempt from a tax that was identical or analogous to Corporate Income Tax at a nominal rate of at least 10%, irrespective of the application of any kind of exemption, allowance, reduction or tax credit.

The “identical or analogous tax” requirement will be deemed fulfilled when the investee is resident in a country with which Spanish has concluded an international double taxation treaty that is applicable to the investee and contains an information exchange clause.

In the event that the non-resident investee obtains dividends, shares of profits or income from the transfer of shares or equity interests in entities, the exemption for such amounts may be applied provided the “identical or analogous” tax requirements is fulfilled at least by the indirectly-owned entity.

As a general rule, it is not necessary for the investee’s results to derive from a business activity carried on abroad, which was a provision of the previous Law.

2.1.5.3. Special rules governing the application of the exemption

- A proportional calculation formula is established for the exempt income in cases in which the non-resident investee has not been subject to an “identical or analogous tax”, with respect to Corporate Income Tax, throughout the share ownership period.

- A special calculation rule is also provided for the income that must be deemed exempt in the case of successive transfers of the same type of securities, where the net balance of the income from the transferred must be considered. The existing rule whereby the exempt amount is limited when, in a prior transaction, certain assets were transferred in exchange for the shares, applying the special neutrality regime provided for business restructurings, such that the income obtained from that transfer was not included in the tax base for Corporate Income Tax, Personal Income Tax or Non-Resident Income Tax, is also extended to transfers of shares in resident entities.
2. Central government taxes

• The application of the exemption is precluded in the case of the transfer of shares in holding companies or economic interest groupings, in the part of the income that does not relate to an increase in retained earnings generated by the investee during the share ownership period. It is also not applicable to income from the transfer of shares in an entity that fulfills international tax transparency requirements, provided at least 15% of its income is subject to the tax transparency scheme.

• If income from the transfer of shares is negative, for deductibility purposes, that negative income will be reduced in the amount of any positive income that may have been obtained by a group company (under Article 42 of the Code of Commerce) from any prior transfer and that was declared exempt. Also, if applicable, the deductible negative income must be reduced by the amount of any exempt dividends received from that shareholding since 2009.

• Finally, the exemption does not apply to dividends or to income from the transfer of shares in entities resident in a country or territory classed as a tax haven, unless the entity resides in a European Union State and demonstrates that there are valid economic reasons for its incorporation and operations, and that it is engaged in economic activities.

2.1.5.4. Income generated by permanent establishments

Positive income obtained abroad through a permanent establishment located outside Spain will be exempt provided the permanent establishment has been subject to and exempt from a tax that is identical or analogous to this tax at a nominal rate of at least 10%.

Negative income obtained abroad through a permanent establishment will not be included in the tax base, except in the event of the transfer or discontinuance of the business of the permanent establishment.

Positive income from the transfer of a permanent establishment that fulfills the taxation requirement at a nominal rate of at least 10%, in the terms stated above, will also be exempt.

The new Law thus continues to apply the criterion whereby negative income from the permanent establishment is not included in the tax base until it is transferred or its business is discontinued.

Finally, the possibility of operating in the same country through different permanent establishments is specifically envisaged, in which case the exemption or tax credit regime will be applied to each permanent establishment separately.

2.1.6. Withholdings and advance payments

Non-operating income, such as interest, rent and dividends, must be subject to withholding tax at source, as an advance prepayment against the final tax liability.
2. Central government taxes

In addition, with certain exceptions, leases of certain types of real estate are subject to withholding tax at source on of the rent paid to lessors.9

Moreover, Spanish companies are also required to make three advance payments (in April, October and December of each year) based on either of the following methods:

1. Calculation of prepayments based on tax payable (the “tax payable” method): taxpayers with revenues not exceeding €6 million in the 12 months prior to the date on which their tax period commences will make the prepayments by applying the rate of 18% to the gross tax payable (net of the related tax credits) of the last tax year whose deadline for filing a return has elapsed.

2. Calculation of prepayments based on the tax base (the “tax base” method): this method is obligatory for taxpayers with revenues exceeding €6 million in the 12 months prior to the date on which their tax period commences, and optional for any other taxpayer that expressly decides to follow the method.

The prepayment is calculated on the portion of the tax base for the first three, nine or eleven months of the calendar year, applying a rate equal to 5/7 of the applicable tax rate (for taxpayers taxable at the standard rate, the advance payment would be 20%). Certain reductions and withholdings made for the tax period will be deducted from the resulting tax payable.

Nonetheless, just as in fiscal years 2012, 2013 and 2014, the rates applicable in 2015 are based on the entity’s revenues in the 12 months prior to the date on which its tax period commences in 2015.

<table>
<thead>
<tr>
<th>Revenues</th>
<th>Tax rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below €10 million</td>
<td>19%</td>
</tr>
<tr>
<td>Between €10 million and €20 million</td>
<td>21%</td>
</tr>
<tr>
<td>Between €20 million and €60 million</td>
<td>24%</td>
</tr>
<tr>
<td>Above €60 million</td>
<td>27%</td>
</tr>
</tbody>
</table>

Additionally, during fiscal year 2015, the entities that apply this tax base method to calculate their prepayments must include in the tax base of the period 25% of the amount of dividends and income accrued to which the exemption of article 21 of the Law applies (foreign-source dividends and capital gains).

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9 Royal Decree-Law 20/2011, of December 30, raised the standard withholding rate from 19% to 21% for fiscal years 2012 and 2013. This 21% rate was subsequently extended for 2014. For fiscal year 2015, the general withholding rate is 20%, and 19% for 2016 onwards.
Moreover, under this tax base method, a minimum prepayment is established for companies with net revenue of at least €20 million in the twelve months preceding the start of tax periods commencing in 2012, 2013, 2014 and 2015; that minimum prepayment is 12% of the income recorded on the income statement in the first 3, 9 or 11 months of each calendar year, reduced by tax loss carryforwards.

Nonetheless, the minimum prepayment rate will be 6% for entities in which at least 85% of their income in the 3, 9 and 11 months of the calendar year relates to income subject to the exemption for foreign source dividends and capital gains or income obtained abroad through a permanent establishment, or to income subject to the tax credit for domestic dividends and capital gains established in the Corporate Income Tax Law.

The withholdings and prepayments can be taken as tax credits in the annual return for the corresponding year. If the sum of such credits exceeds the final tax payable, the company is entitled to a refund for the excess prepaid.

2.1.7. Consolidated tax regime

Spanish tax law envisages the possibility of certain corporate groups being taxed on a consolidated basis.

The filing of a consolidated return has significant advantages, most notably the fact that the losses of some group companies can be offset against the profits of others. Also, since inter-company profits are eliminated in calculating consolidated income, the arm’s-length test being applied in the valuation of inter-company transactions could be irrelevant\(^\text{10}\).

For tax purposes, a consolidated group is a set of entities resident in Spain in which a resident or nonresident entity has a direct or indirect ownership interest of at least 75%\(^\text{11}\) of the capital and holds a majority of the voting rights of one or more other entities that are deemed subsidiaries on the first day of the tax period in which this tax regime applies.

Where an entity not resident in Spain or in a country or territory classified as a tax haven, with legal personality and subject to and not exempt from a tax identical or similar to Spanish corporate income tax, has the status of parent with respect to two or more subsidiaries, the tax group will be formed by all the subsidiaries.

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\(^{10}\) In such cases, the legislation excludes transactions performed within the tax group from the documentation obligation generally applicable to related-party transactions.

\(^{11}\) Regarding entities whose shares are admitted to listing on a regulated market, the minimum holding of a parent company in its subsidiaries is reduced to 70% for the purposes of the definition of ‘tax group’, so long as they are subsidiaries whose shares are admitted to trading on a regulated market. The reduction will apply in tax periods beginning on or after January 1, 2010.
2. Central government taxes

Solely for the purpose of applying the consolidated tax regime, the permanent establishments of nonresident entities will be deemed Spanish resident investees, in which those nonresident entities own 100% of the capital and voting rights.

In order to request the application of the consolidated tax regime, the following requirements must be met:

- The controlling company or permanent establishment must have a direct or indirect holding of at least 75% in the capital stock of another company and must hold a majority of the voting rights of one or more other entities that are deemed subsidiaries on the first day of the tax period in which this tax regime applies;

- That holding and those voting rights must be maintained throughout the tax period.

- It must not be a direct or indirect subsidiary of any other company that meets the requirements to be deemed the parent.

- It must not be subject to the special regime for economic interest groupings, whether Spanish or European, joint ventures or like regimes.

- In the case of permanent establishments of entities not resident in Spain, those entities must not be direct or indirect subsidiaries of any other that meets the requirements to be deemed the parent, and they must not reside in a country or territory classed as a tax haven.

Resolutions for group companies to be taxed on a consolidated basis must be adopted by the Board of Directors (or equivalent body if they are not formed under the Commercial Code), and the tax authorities must be notified at any time during the tax period immediately prior to that in which the consolidated tax regime is applied. The regime will be applicable indefinitely so long as its application is not waived.

It should be highlighted that the status of representative of the tax group will fall on the parent where it is a resident in Spain, or on such entity of the tax group designated by it, where there are no other Spanish resident entities that meet the requirements to be deemed the parent.
2. Central government taxes

2.1.8. Foreign-securities holding entities

Current legislation of the regime governing foreign-securities holding entities (in Spanish, ETVEs) makes it one of the most competitive in the European Union.

The main features of this special regime are summarized below:

1. Corporate purpose and application of the regime.

   It is sufficient to notify the decision to apply the regime to the Ministry of Finance and Public Administrations (no permission has to be granted by the authorities).

   The securities or interests representing the holding in the capital of the ETVE must be registered securities or interests. This special regime is not available for listed companies.

   Regarding the corporate purpose of the ETVE, it is sufficient for the corporate purpose to include the management and administration of securities representing the equity of entities not resident in Spanish territory, by means of the appropriate organization of material and personal resources.

   Moreover, an ETVE may be a member of a consolidated tax group, if it meets the relevant requirements, although this regime is not applicable to Spanish or European Interest Groupings, to Temporary Business Associations, or to entities which have as their principal activity the management of movable or immovable assets under certain conditions.

2. Treatment of the income obtained by the ETVE from holdings in nonresident entities.

   Firstly, the dividends or shares in the profits of entities not resident in Spain, and gains deriving from the transfer of the holding, are exempt subject to the requirements and conditions provided for under the exemption method to avoid international double taxation.

   Secondly, a minimum holding of at least 5% must be owned in the nonresident entity to apply the aforementioned method. For the purpose of applying the exemption provided for in the ETVE regime, the minimum holding requirement is deemed to be met if the acquisition value of the holding is over €20 million. Holdings of less than 5% may be held in second and subsequent level subsidiaries (when the €20 million requisite is maintained), if these subsidiaries meet the conditions referred to in Article 42 of the Commercial Code for forming part of the same group of companies as the first-level foreign entity and file consolidated financial statements. This €20 million limit does not apply at entities that already applied the ETVE regime in tax periods commencing before January 1, 2015 and met the quantitative limit of €6 million at their investees (which is the limit that was established in the legislation prior to that currently in force).

3. Treatment of income distributed by the ETVE.

   If the recipient of the income is an entity subject to Spanish corporate income tax, the income received will entitle the recipient to the exemption for domestic double taxation.
2. Central government taxes

In case the recipient is an individual subject to Spanish personal income tax, the income distributed will be considered savings income and he may apply the tax credit for taxes paid abroad on the terms provided for in personal income tax legislation.

Finally, when the recipient is an individual or entity not resident in Spain, the profits distributed will not be deemed to have been obtained in Spain and, in this respect, the first distribution of profits will be deemed to derive from exempt income. In this respect, the distribution of additional paid-in capital is to be treated in the same way as the distribution of income, it being considered that the first income distributed comes from exempt income.

4. Treatment of the capital gains obtained on the transfer of the holdings in the ETVE.

When the shareholder is an entity subject to Spanish corporate income tax or to nonresident income tax with a permanent establishment in Spain, it may apply the exemption to avoid double taxation (where it meets the percentage holding requirements established in the article regulating the exemption).

When the shareholder is a person or entity not resident in Spain, the income relating to the reserves allocated with a charge to the exempt income or to the value differences imputable to the holdings in nonresident entities which fulfill the requirements to apply the exemption to foreign source income, will not be deemed to have been obtained in Spain.

No special rules have been introduced for individual resident shareholders, who will be subject to personal income tax legislation.

2.1.9. Neutral tax regime for restructuring operations

In order to facilitate corporate reorganizations (mergers, spin-offs, contributions of assets, and exchanges of securities and transfers of registered office of a European company or a European cooperative society from one EU Member State to another), the Spanish tax system provides for a well-established special regime based on the principles of non-intervention by the tax authorities and tax neutrality, which guarantees the deferral of or exemption from taxation, as appropriate, in respect of both direct and indirect taxation, for taxpayers carrying out such operations, along the same lines as the rest of the EU Member States.

Starting in fiscal year 2015, this regime is expressly configured as the general regime to be applied to restructuring transactions, meaning that the election to apply it has been eliminated, and there is a general obligation to notify the tax authorities of the performance of transactions pursuant to this regime.

In mergers, the absorbing entity can be subrogated to the right to offset tax loss carryforwards of the absorbed entity or branch of activity.
2. Central government taxes

2.1.10. Tax incentives for small and medium-sized enterprises

Enterprises whose net sales in the immediately preceding tax period (or in the current period in the case of newly-incorporated enterprises) amount to less than €10 million qualify for certain tax incentives. If the enterprise belongs to a group of companies within the meaning of Article 42 of the Commercial Code, the net sales figure will be calculated for the group as a whole.

This regime does not apply if the company has the consideration of an asset-holding entity.

The special regime also applies:

- During the three successive tax periods following that in which the €10 million threshold is reached (provided that the conditions are met for these entities to be deemed entities of a reduced size, both in the period in question and in the two preceding tax periods).

- Where the €10 million threshold is exceeded as a consequence of a business restructuring carried out under the special tax neutrality regime, provided that all the entities involved in the transaction meet the conditions to be deemed entities of a reduced size, both in the tax period in which the transaction is performed and in the two preceding periods.

The incentives can summarized as follows:

- Accelerated depreciation of their tangible fixed assets up to certain limits, provided that certain job creation requirements are met.

  This possibility is inconsistent with the tax credit for reinvestment of extraordinary income.

- Entitlement to increase by 2 the maximum depreciation rates permitted per the official depreciation tables (without having recorded it for accounting purposes) for new tangible fixed assets, investment property and intangible assets (except, amongst others, goodwill and trademarks, which can be depreciated by multiplying by 1.5 the maximum depreciation rates permitted per the official depreciation tables).

- Ability to record provisions for bad debts based on 1% of the balance of their accounts receivable at the end of the tax period.

- In 2015, the tax rate for entities of a reduced size is 25% for a tax base of up to €300,000, and 28% thereafter. Starting in 2016, that rate will be 25% in all cases.

  In case of application of the capitalization reserve and the tax base leveling-out, this tax rate could be reduced, approximately, to a 20%.

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- Application of the “tax base leveling-out reserve” system, which entails a reduction of up to 10% of the tax base, with a maximum annual limit of €1 million (or the proportional amount if the entity’s tax period were shorter than a year). This tax benefit has the following characteristics:
  
  — This reduction will have to be included in the tax bases of the tax periods concluding in the 5 years immediately following the end of the tax period in which the reduction was applied, as and when the entity obtains tax losses. The amount not included at the end of that term, because sufficient tax losses have not been generated, will be added to the tax base of the period in which that term ends.

  — A reserve shall be recorded for the amount of the reduction, out of income of the year in which the reduction is made, and it will be restricted during the aforementioned 5-year term. If this reserve cannot be recorded, the reduction will be conditional on the reserve being recorded out of the first income of the following fiscal years, in respect of which it is possible to record the reserve.

  The breach of this requirement will trigger the inclusion in the tax base of the amounts that were reduced, plus 5%.

  — The amounts used to record this reserve cannot be applied simultaneously to the capitalization reserve also regulated in the new law.

2.1.11. Other special taxation regimes

Corporate income tax legislation contains provisions governing special taxation regimes, established mainly as a result of the nature of the taxpayer or of the activities carried on by entities in a specific economic sector:

1. Spanish and European Economic Interest Groupings (EIGs).

   These entities and their members are subject to the general corporate income tax rules, with the particularity that they do not pay the tax debt relating to the portion of their taxable income attributable to members resident in Spain and permanent establishments in Spain of nonresidents.

   The nonresident members of a Spanish EIG are taxed pursuant to the Nonresident Income Tax Law and pursuant to the rules contained in the tax treaties. The nonresident members of a European EIG are only taxed in Spain on the income of the EIG attributed to them, if they are considered to have a permanent establishment in Spain.

2. Temporary Business Associations (“UTE”).

   These entities are taxed in the same way as EIGs. However, the foreign-source income (derived from activities carried on abroad) of UTEs is tax-exempt (subject to application to the tax authorities).
2. Central government taxes

The losses obtained by a UTE abroad are imputed to the tax bases of its members. If, in future years, the UTE obtains income it must be included in the tax base of its members up to the limit of the losses previously included.

3. Other special tax systems.

Other special tax systems apply to venture capital companies and funds, industrial and regional development companies and collective investment institutions.

Special regimes for economic sectors apply to both mining companies, companies engaging in oil and gas research and exploitation activities and to shipping entities on the basis of tonnage.

Lastly, the international fiscal transparency regime, already explained above, is established.

2.1.12. Formal requirements

Unless otherwise stipulated in the bylaws, the fiscal year is deemed to end on December 31 each year, coinciding with the calendar year, although taxpayers can establish a different fiscal year not exceeding 12 months but which can be shorter if (i) the entity is extinguished, (ii) the entity moves its residence abroad, or (iii) its legal form is altered and the resulting entity is not subject to taxation, its tax rate changes or it is subject to a special tax regime.

The tax becomes chargeable, in general, on the last day of the tax period. Thus, if the tax period coincides with the calendar year, the tax is chargeable on December 31.

Annual returns must be filed and the tax paid within 25 days following the six months after the end of the tax period.

At present, the tax forms to be used to report the tax are the following:

1. Form 200. This return is generally used by companies that are subject to common legislation on the tax, regardless of their activity or size.

   This form can be filed on paper format or telematically.  

2. Form 220. Its use is obligatory for tax groups and it must be filed by the parent company of the group (this does not preclude the obligation for all the group entities to file a Form 200).

2.2. Personal income tax

This tax, which is one of the pillars of Spain’s tax system, is currently governed by Law 35/2006, of November 28, on Personal Income Tax, which has been amended by Law 26/2014, of November 27, 2014 and by Royal Decree 439/2007, of March 30, 2007, approving the Personal Income Tax

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12 Telematic filing is required for taxpayers registered with the Central Office for Large Taxpayers or with the Management Units for Large Enterprises, as well as for all taxpayers that have the form of corporation or limited liability company.
2. Central government taxes

Regulations (amended by Royal Decree 1003/2014 in relation to the reduction in withholdings and the regulation of new deductions for large families or disabled persons).

As discussed below, the taxation of nonresident individuals is regulated in a separate law (the Revised Nonresident Income Tax Law).

2.2.1. Persons subject to the tax

The following persons are subject to personal income tax:

- Individuals habitually resident in Spanish territory.

- Individuals of Spanish nationality who are habitually resident abroad but fulfill any of the conditions laid down in the Law (e.g. diplomatic and consular services, etc.). Moreover, any Spanish national who establishes his residence for tax purposes in a tax haven will remain subject to personal income tax (this rule will apply in the year in which residence is changed and for the following four years).

A taxpayer is deemed to be habitually resident in Spanish territory if any one of the following conditions is met:

- The taxpayer is physically present in Spanish territory for more than 183 days in the calendar year. Sporadic absences are included in determining the length of time a taxpayer is present in Spanish territory, unless tax residence in another country is proved. In the case of territories designated in the regulations as tax havens, the authorities may require the taxpayer to prove that he was present in the territory in question for 183 days in the calendar year (excluding absences due to cultural or humanitarian cooperation, for no consideration, with the Spanish authorities).

- The main center or base of the taxpayer’s activities or economic interests is in Spain, either directly or indirectly.

  In the absence of proof to the contrary, an individual is presumed to be resident in Spain if his/her spouse/husband (from whom he/she is not legally separated) and dependent under-age children are habitually resident in Spain.

  Individuals who are payers of nonresident income tax and are resident in a Member State of the European Union may elect to be taxed under Spanish personal income tax if they demonstrate that their habitual domicile or residence is in another EU Member State and that at least 75% of their total income during the year was obtained as salary income or business income in Spain.

2.2.2. Taxable event

Taxpayers subject to personal income tax are taxed on their entire worldwide income, including the income of foreign entities in certain circumstances (international fiscal transparency system), unless the nonresident entity is resident of a EU Member State in a manner similar to that described above.
for corporate income tax, and capital gains (and losses) in the calendar year, net of the necessary expenses (as defined in the Law) incurred to obtain such income.

2.2.3. Taxation system and taxpayer

The possibility of being taxed individually or jointly (as a family unit) is regulated. However, there is only one tariff but divided in two parts: the general one and the autonomous community one.

2.2.4. General structure of the tax

The Law distinguishes between a general component and a savings component of taxable income. The general component is taxed according to a progressive scale of rates while the savings component is taxed at fixed rates (or according to a scale applied by income brackets).

The general and the savings net tax payable are calculated on the basis of the general and savings components after applying certain reductions.

Moreover, the general and the savings components of taxable income are calculated according to the categories of general and savings income; these categories constitute fixed compartments, with some exceptions, such that, within each category, the income items are integrated and offset against each other but without the possibility of offsetting losses with the losses of other categories of income. Within each category, there are even sub-compartments that cannot be offset against each other.

In this regard, the general component of taxable income is the result of adding the following two balances:

1. The balance resulting from adding and offsetting against each other, without limit, the following income and attributions of income:
   - Salary income.
   - Income from real estate.
   - Income from movable capital derived from the transfer of own funds to entities related to the taxpayer. This rule does not apply (in which case such income must be included as savings income) where:
     - They are entities of the kind provided for in Article 1.2 of Legislative Royal Decree 1298/1996, of June 28, Adapting the Law Currently in Force on Credit Institutions to the Law of the European Communities, provided that such income does not differ from the income that would have been offered to groups similar to the persons related to such institutions.
     - The amount of own funds assigned to a related entity does not exceed the result of multiplying equity by three, to the extent that it relates to the taxpayer’s interest in the related entity.
2. Central government taxes

— Other income form movable capital which is not considered savings income, such as that derived from the assignment of the right to use the image, that from intellectual property when the taxpayer is not the author and that from industrial property which is not attached to business activities performed by the taxpayer.

— Income from business activities.

— Imputation of income from real estate.

— Imputation of income from entities under the international fiscal transparency system.

— Imputation of income from assignment of rights of publicity.

— Changes in the value of units in collective investment undertakings established in tax havens.

2. The positive balance resulting from adding and offsetting against each other, exclusively, capital gains and losses excluding those which are deemed savings income. If its balance is negative, it may be offset against 25% of the positive balance, if any, of income and attributions. The rest of the negative balance will be offset in the following four years with the same setoff rules, the legislation establishing an express mandate for the setoff to be made of the maximum amount that the rules allow.

The savings component of taxable income is calculated based on the savings income which is formed by the positive balance resulting from adding the following balances:

a) On the one hand, the positive balance resulting from adding and offsetting against each other the following income:

- Income derived from an entity due to the status of partner, shareholder, associate or stakeholder.

- Income from movable capital derived from the transfer of own funds to third entities not related to the taxpayer or derived from related entities that meet the requirements in order not to be included as general income (indicated in the previous section).

- The monetary return or payment in kind on capitalization transactions and life or disability insurance contracts.

If the inclusion and setoff of such income against each other leads to a negative result, this amount may only be offset against the positive balance of the capital gains and losses reported in the other component of savings income with the limit of 25% of that positive balance.

b) The positive balance resulting from adding and offsetting the capital gains and losses arising from the transfer of assets. If such result is negative, the amount thereof could be offset against the positive balance of the other component of savings income, income from movable capital, with the limit of 25% of that positive balance.
In both cases, if the balance is negative after those gains and losses have been offset, the amount thereof may be offset in the following four years.

However, in years 2015, 2016 and 2017, the offset rate will not be 25% but rather 10%, 15% and 20% respectively.

These rules on inclusion and offset are applicable starting in 2015. As changes have been made with respect to those applicable up to 2014, a transitional regime has been established for the amounts outstanding offset from prior years, which is summarized in the following table:

<table>
<thead>
<tr>
<th>Fiscal year</th>
<th>Item</th>
<th>Item</th>
<th>Offset starting in 2015 against:</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013-2014</td>
<td>Capital losses derived from transfer with generation period of more than 1 year, outstanding offset at January 2015.</td>
<td>Capital gains derived from transfer irrespective of generation period.</td>
<td>Without possibility of offsetting income from movable capital and capital gains and losses against each other (25% limit specified, reduced in certain years).</td>
</tr>
<tr>
<td>2011-2012</td>
<td>Capital losses not derived from transfer, outstanding offset at January 1, 2003.</td>
<td>Capital gains not derived from transfer (e.g., prizes).</td>
<td></td>
</tr>
<tr>
<td>2013-2014</td>
<td>Capital losses not derived from transfer, outstanding offset at January 1, 2015.</td>
<td>Capital gains not derived from transfer (e.g., prizes).</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Capital losses derived from transfer with generation period of less than 1 year.</td>
<td>Capital gains derived from transfer irrespective of generation period.</td>
<td></td>
</tr>
</tbody>
</table>
2. Central government taxes

2.2.5. Exempt income

The legislation establishes numerous items of exempt income. Noteworthy among the exemptions is that relating to salary income for work performed abroad. This exemption will apply to salary income accrued during the days spent by the employee abroad up to a limit of €60,100 per year, if certain requirements are met:

- Salary income has to be paid in respect of work effectively performed abroad. Namely, the taxpayer must be rendering services physically abroad.

- In the case of services rendered by related entities to each other, an advantage or benefit occurs or may occur for the recipient.

- The recipient of the services must be either a non-Spanish-resident entity or a permanent establishment situated abroad of a Spanish resident company.

- A tax identical or similar to the Spanish personal income tax must exist in the other country, and such country must not be a territory classified as a tax haven. This requirement will be deemed to be met when the country or territory where the work is performed has signed with Spain a tax treaty containing an exchange of information clause.

The exempt income received for work performed abroad must be calculated (i) by reference to the number of days that the worker actually spent abroad and the specific income relating to the services provided outside the country; and (ii) to calculate the daily amount earned for the work performed abroad, a proportional distribution method must be used, by reference to the total number of days in the year, aside from the specific income relating to the work performed.

Furthermore, an exemption is envisaged for capital gains arising on the transfer of the taxpayer’s principal residence, where the total amount is reinvested in the acquisition of a new principal residence within two years following the transfer date, under certain conditions, or the general exemption for dividends of up to €1,500 annually.

Also relevant are the exemption for employee severance indemnities or termination benefits in the mandatory amount stipulated in the Labor Statute, in its enabling regulations or, if applicable, in regulations governing the enforcement of judgments, excluding amounts stipulated in agreements, clauses or contracts (limited to the sum of €180,000 for dismissals that take place since 1 August 2014), or the exemption for positive securities investment income from life insurance, deposits and financial contracts used to arrange Long-Term Savings Plans, provided the taxpayer does not utilize any Plan capital before the first five years have elapsed.

It should be noted that the general exemption for dividends up to €1,500 per annum was recently eliminated (as from 2015).
2. Central government taxes

2.2.6. Earned income

The main aspects of the tax treatment of earned income are as follows:

1. Both cash income and benefits in kind are taxable.

2. The most relevant matters affecting benefits in kind are explained below:
   — In general, they are valued at the market value of the remuneration.
   — Nonetheless, the Law provides special rules for certain types of income:
     A benefit in kind consisting of the assignment of the use of vehicles valued at 20% per annum of the acquisition cost for the payer or 20% of the vehicle’s value as if it were new (depending on whether or not it is owned by the company, respectively). The amount calculated must be weighted based on the percentage of private utilization of the vehicle. The value obtained may be reduced by up to 30% in the case of vehicles classed as energy-efficient.
     If the vehicle is handed over to the employee, it will be valued at cost less the value of prior utilization.
     A benefit in kind consisting of the use of housing owned by the company is limited to 5% or 10% of the ratable value, depending on whether or not this value has been revised, respectively, up to the maximum limit of 10% of the rest of the earned income.
     Other remuneration is valued at cost, such as subsistence or accommodation expenses.
     — In any event, the Law states that, irrespective of the above-mentioned general and special rules, the value of benefits in kind paid by companies engaged habitually in the performance of the activities that give rise to the benefits in kind may not be lower than the price charged to the general public for the good, right or service in question, applying ordinary or common discounts, which may not exceed 15% or €1,000 per annum.
     — It should also be noted that certain benefits in kind are not taxable.
     The handover to current employees, free of charge or at below-market price, of shares in the company itself or in other group companies, is not taxable in the portion that does not exceed €12,000 per annum, for the total number of shares handed over to each employee, provided that the offer is made on the same terms for all the employees of the company, group or sub-group of companies.
     Amounts paid to entities responsible for providing public passenger transport services to help employees to travel from their place of residence to their work center are not taxable, subject to the limit of €1,500 per annum per employee (including indirect payment formulae that fulfill a number of conditions such as “transport passes / vouchers”).
2. Central government taxes

Restaurant vouchers and health insurance premiums are not taxable, subject to quantitative limits; child care vouchers are also not taxable, subject to no limits.

3. Reduction for irregular income:

A 30% reduction is applicable to irregular income, which is defined as follows:

— Income that is generated over more than two years, provided that the reduction has not been applied in the preceding five tax periods.

— Or income classed by regulations as being markedly irregular.

This 30% reduction may be applied to a maximum of €300,000 per annum (reducing the limit for severance indemnities or termination benefits to €700,000).

4. Other types of reduction are applicable to certain earned income.

When calculating the income, certain expenses are also deducted such as Social Security contribution and a general reduction of €2,000 per annum for other expenses (this reduction increases in certain circumstances).

Taxpayer with net earned income of less than €14,450 apply an additional reduction based on the amount of their income.

5. Finally, entities resident in Spain will be required to make withholdings on earned income paid to their workers, irrespective of whether or not the income is paid by the entity itself or by a different resident or non-resident related entity.

2.2.7. Rental income

For the calculation of the net income all the expenses necessary to obtain it can be deducted.

The financial expenses and repair and maintenance expenses that can be deducted may not exceed the gross income generated by each property. However, the excess may be deducted under identical conditions in the following four years.

The remaining expenses may give rise to negative net income from immovable property.

In cases of leases of residential properties, a 60% reduction will apply to the net income (i.e. gross income less depreciation and amortization, non-State taxes and surcharges, etc.) provided it is a positive figure.

In addition, if the income was generated over a period exceeding two years, or if it was obtained at irregular time intervals, a 30% reduction will apply up to the limit of €300,000.
2. Central government taxes

2.2.8. Income from movable capital

The income from movable capital will generally be included in the savings component of taxable income, in the manner specified previously. This refers mainly to:

- The income derived from a holding in the equity of entities (such as dividends).

Noteworthy in this type of income is the treatment of the holdings in open-end investment vehicles (SICAVs). In this regard:

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In the case of capital reductions made to reimburse contributions, the amount of the reduction will be deemed income from movable capital, with the limit of the higher of the two following amounts: (i) That relating to the increase in the redemption value of the shares since their acquisition or subscription until the moment of the capital reduction, or (ii) where the capital reduction derives from retained earnings, the amount of such earnings. In this regard, it will be considered that capital reductions, regardless of their aim, affect firstly the portion of capital that derives from retained earnings, until that portion reaches zero.

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Any excess over the limit determined according to the above rules will reduce the acquisition value of the relevant shares in the SICAV until it reaches zero, which will determine the future income deriving from the transfer. Nonetheless, any excess that might still exist will be included as income from movable capital derived from the holding in the equity of all kinds of companies, in the manner established for the distribution of additional paid-in capital.

These rules will also apply to the shareholders of collective investment undertakings equivalent to SICAVs and registered in another EU Member State (and, in any case, they will apply to the companies covered by Directive 2009/65/EC of the European Parliament and of the Council, of July 13, 2009, on the coordination of the laws, regulations and administrative provisions on certain collective undertakings for investment in transferable securities).

In addition, with respect to the distribution of additional paid-in capital, the law establishes that the amount obtained will reduce, down to zero, the acquisition value of the shares or holdings concerned, and any resulting excess will be taxed as income from movable capital.

Notwithstanding the preceding paragraph, in case of distribution of additional paid-in capital relating to securities not admitted to listing on any of the regulated securities markets defined in Directive 2004/39/EC of the European Parliament and of the Council, of 21 April 2004, on markets in financial instruments and representing the share in the equity of companies or entities, where the difference between the value of equity of the shares or holdings relating to the last fiscal year-end prior to the date of the distribution of the additional paid-in capital and the normal market value of the assets or rights received will be deemed income from movable capital, with the limit of that positive difference.

- The income obtained from the transfer to third parties of own capital (such as interest).
2. Central government taxes

- The income from capitalization transactions and life or disability insurance and the income from
capital deposits.

However, certain items of income from movable capital form part of the general component of
the tax base:

- Income deriving from the transfer to third parties of own capital, in the part relating to the
excess of the amount of own capital transferred to a related entity, with respect to the result
of multiplying by three the equity of the entity that relates to the holding. The aim of this rule
is to prevent the tax rates of the savings component (which are lower) from being applied
to cases in which the income derives from the debt of the shareholders with their investees
where there is “excess debt”, such that the financial income can be replacing income that
could have been taxed in the general component of the tax base. Thus, for example, if
the individual shareholder of an entity holds a 100% stake in it, to which equity of 1,000
corresponds, and he lends it 4,000, the interest on that loan will be included in the savings
component only in the portion relating to 3,000 (3 x 1,000).

- The items of income referred to in the Law as “other income from movable capital”, which
are income deriving from (i) intellectual property where the taxpayer is not the author, (ii)
industrial property not assigned to economic activities, (iii) the lease of furniture, businesses
or mines or from the sublease of such assets (received by the sublessor) which are not
business activities, and (iv) the assignment of the right to exploit an image or from the
consent or authorization for the use thereof, when the aforementioned assignment does not
take place in the course of a business activity. In this case, a 30% reduction can be applied if
they are generated over more than two years or are classified by regulations as notably multi-
year in nature.

2.2.9. Capital gains and losses

As already noted, capital gains and losses are classified into two types: (i) those not deriving from
transfers, and (ii) those deriving from transfers. The first type is included in the general component
of taxable income and taxed at the marginal rate, and the second type is included in the savings
component.

With respect to capital gains and losses, the following aspects are worthy of note:

1. In general, a capital gain or loss on a transfer, whether for valuable consideration or for no
consideration, is valued as the difference between the acquisition and transfer values of the items
transferred. In certain circumstances, however, these values are indexed to the market because
they entail transactions in which there is no acquisition or transfer value per se. For example,
in the gift of an asset, the gain is calculated as the difference between its cost and the market
value of the asset at the date of the gift; or in the case of a swap, the gain is calculated as the
difference between the acquisition value of the asset or right transferred and the higher of the
market value of that asset or right and that of the asset or right received in exchange.
2. Central government taxes

In some cases, there are also rules aimed at guaranteeing the taxation of the actual income. For example, in the transfer of unlisted securities, the transfer value will not be the price of the securities but rather the higher of that price, the value of equity resulting from the last balance sheet closed before the tax becomes chargeable, or the value resulting from capitalizing at 20% the average of the results of the last three fiscal years closed before that tax becomes chargeable (unless it is proven that the transfer price is the market price).

2. Adjustment rates: Up to 2014, the law envisaged the application of adjustment rates, but only in the case of transfers of real estates. The adjustment rates were aimed at correcting for inflation and were applied to the acquisition cost of the transferred real estate and to the related depreciation. This measure has disappeared with the recent reform and therefore does not apply in 2015.

3. Abatement coefficients: the Law establishes the application of coefficients which reduce the gain deriving from the transfer. However, the application of these coefficients is only envisaged for the assets acquired before December 31, 1994.

However, the coefficients do not apply to all the gain generated on the transfer but only to that generated until the legislation eliminated the coefficients, specifically up to January 19, 2006.

4. In general terms, what must be done is to (i) calculate the amount of the “nominal” capital gain, (ii) distinguish the portion of that gain generated up to and including January 19, 2006, and the portion generated after that date (according to rules depending on the type of asset, the general rule being that of straight-line distribution) and (iii) apply the coefficients to the first-mentioned portion of the gain.

The coefficients are (a) 11.11% in the case of real estate or real estate companies, for each year that has elapsed from the acquisition of the asset until December 31, 1994 (meaning that the gain generated up to January 19, 2006, from real estate acquired before December 1985, will not be subject to tax), (b) 25% in the case of shares traded on secondary markets (the capital gains generated up to January 19, 2006, deriving from assets acquired before December 31, 1991, not being subject to tax), and (c) 14.28% in the remaining cases (in which the gain generated up to January 19, 2006, from assets acquired before December 31, 1998 will not be subject to tax).

The rest of the gain, i.e. that which is deemed to be generated after January 20, 2006 (inclusive) will be taxed in full (notwithstanding the application, in the case of real estate, of the revision coefficients to correct inflation, in the determination of the price or cost of acquisition).

This regime has been amended as part of the tax reform, establishing a maximum transfer value of €400,000 in order to be able to apply the abatement coefficients. However, this new limit of €400,000 does not apply to the transfer value of each asset individually but to the total transfer values of all the assets as a whole to which the abatement coefficients apply starting on January 1, 2015, up to the moment when the capital gain is allocated. In other words, it is a global limit even if the sale of each asset takes place at different times.
5. Certain capital gains and losses are not deemed as such (and, thus, are not taxed or their taxation differs), namely (i) those deriving from the dissolution of jointly owned property or (ii) those resulting from the division of common property. At other times, the losses obtained are not computed, as occurs with (a) losses due to consumption or (b) those deriving from gifts. The Law also establishes an anti-abuse rule which prevents computing the losses deriving from the transfer of securities listed on organized markets when homogenous securities have been acquired in the two months before or after the transfer (the term is one year in the case of transfers of securities not traded on organized markets); in these cases, the losses are included as and when the securities remaining in the taxpayer’s assets are transferred.

Of the capital gains or losses that are not subject to tax, worthy of note are those deriving from the gift of a family business, where (i) the assets were used in the economic activity for at least five years before the transfer date, and provided that the donor (i) is 65 years or older or suffers from absolute permanent disability or comprehensive disability, (ii) ceases to perform management functions and to be remunerated for those functions, and that the donee keeps the assets received for at least 10 years as from the date of the public deed documenting the gift, except in the case of death, and does not carry out any dispositions or corporate transactions which could lead to a significant decrease in the acquisition value of the business received.

In addition, it is established, among other things, that the taxpayer will not compute the capital gains obtained on the transfer of units or shares in collective investment undertakings provided that the proceeds are reinvested in assets of a similar nature.

In both cases, the new shares or units subscribed will maintain the value and the acquisition date of the shares or units transferred.

Capital gains are also not deemed to arise from capital reductions. Where the capital reduction, regardless of its purpose, gives rise to the redemption of securities or holdings, those acquired first will be considered redeemed, and their acquisition value will be distributed proportionally amongst the rest of the analogous securities remaining in the taxpayer’s assets. Where the capital reduction does not affect all the securities or holdings owned by the taxpayer equally, it shall be deemed to refer to those acquired first.

Where the purpose for the capital reduction is to reimburse contributions, the amount of the reduction or the normal market value of the assets or rights received will reduce the acquisition value of the securities or holdings concerned, in accordance with the rules of the preceding paragraph, down to nil. Any excess shall be included as income from movable capital derived from the share in the equity of any kind of entity, in the manner established for the distribution of additional paid-in capital, unless that capital reduction derives from retained earnings, in which case the sum of the amounts received for this item will be taxed in accordance with the provisions of letter a) of article 25.1 of this Law. For these purposes, it shall be considered that the capital reduction, whatever its purpose, affects firstly the portion of the capital that derives from retained earnings, until they are reduced to zero.
2.2.10. Reductions in the net tax base to adapt the tax to the personal and family situation of the taxpayer

The Law establishes certain reductions for the portion of the net taxable income used for the taxpayer’s basic and personal needs, which are not subject to taxation:

1. The taxpayer’s personal allowance: €5,550 annually which will be increased by €1,150 annually for persons over 65 years of age and by €1,400 for persons over 75 years of age.

2. Allowance for descendants: for each unmarried descendant aged under 25, or descendant with disabilities regardless of age, or person under a guardianship or foster care arrangement living with the taxpayer and not obtaining annual income above €8,000, the taxpayer will be entitled to a reduction of €2,400 for the first, €2,700 for the second, €4,000 for the third and €4,500 for the fourth and subsequent of these. Where the descendant is aged under 3 the foregoing amounts will be increased by €2,800 annually.

The family reductions will not apply if the taxpayers generating entitlement to these amounts file personal income tax returns obtaining income exceeding €8,000 or an application for a refund.

3. Allowance for ascendants: €1,150 for each ascendant over 65 years of age or a person with disabilities who lives with the taxpayer (or dependent boarders) who does not obtain income exceeding €8,000. For ascendants over 75 years of age it is increased by €1,400.

4. Allowance for disability: (i) of the taxpayer: in general, €3,000 annually, although it will be €9,000 annually for persons who prove they have a disability equal to or greater than 65% (there will be an increase of €3,000 annually for assistance, if the need for assistance from third parties, or the existence of limited mobility or a disability of at least 65% is proven); (ii) of ascendants or descendants: for those that confer a right to the above-mentioned allowances, a reduction of €3,000 per person and year, although it will be €9,000 annually for persons who prove they have a disability equal to or greater than 65% and an increase of €3,000 annually for assistance, if the need for assistance of third parties, limited mobility or a disability of at least 65% is proven.

5. For family units formed by spouses who are not separated and, where relevant, underage children or persons with disabilities, before the application of the personal and family allowances, a reduction will be made of €3,400 which will be applied, first of all, to the regular net tax base (which may not be negative) and subsequently, if there is a surplus, to the savings net tax base. This prior reduction will be €2,150 for single-parent family units, except in cases of living with the father or mother of one of the children that form part of the family unit.

2.2.11. Determination of the net taxable income

The general component of net taxable income will be the result of applying to the general component of taxable income the reductions for situations of dependence and old age and for contributions to social provision systems, including those established for persons with disabilities,
contributions to protected estates of persons with disabilities and reductions for compensatory pensions. The application of the above-mentioned reductions may not generate a negative general net tax base.

Notable among these reductions are those deriving from contributions to employee welfare systems. Thus, making these contributions will reduce the tax base by the lower of the following amounts:

1. €8,000, in general.
2. 30% of the sum of net income from work and business activities.

Contributions to pension plans in which the taxpayer’s spouse is the participant or member may also qualify for a reduction provided that the spouse does not obtain earned income or income from business activities, or where such income is lower than €8,000 per annum. The maximum reduction limit is €2,800 and the contribution is not subject to inheritance or gift tax.

If the general net tax base is negative, it can be offset with the positive net tax bases of the following four years.

The savings component of net taxable income will be the result of deducting from the savings tax base the remainder (not applied to reduce the general tax base), if any, of the reduction for compensatory pensions, but such operation may not lead to a negative savings net tax base.

2.2.12. Determination of the gross tax payable: tax rates

The gross tax payable is calculated by applying the tax rates to the net tax base. Specifically:

• On the one hand, what we could call the “general gross tax payable” is calculated by applying the progressive scale of tax rates to the general net tax base and subtracting from it the result of applying the same scale to the personal and family allowances.

• On the other hand, what we could call the “savings gross tax payable” is calculated by applying the savings scale of tax rates to the savings net tax base.

There is not just one tax scale but rather there is a national scale and an autonomous community scale. Thus, a taxpayer in Madrid, for example, will apply to his or her net tax base both the national scale and the Madrid autonomous community scale.

The taxpayer’s place of habitual residence determines the autonomous community in which income is deemed to be obtained for personal income tax purposes. The Law also lays down specific rules to prevent tax-motivated changes of residence.

The tax scales do not vary on the basis of the type of return (joint or separate) chosen by the taxpayer.

For fiscal year 2015, the total tax scale (national plus autonomous community rates) applicable to the autonomous communities that have not approved a specific autonomous scale is as follows:
2. Central government taxes

For fiscal year 2016, the total tax scale (national plus autonomous community rates) applicable to the autonomous communities that have not approved a specific autonomous scale is as follows:

<table>
<thead>
<tr>
<th>Net taxable income (up to euros)</th>
<th>Gross tax payable (euros)</th>
<th>Rest of net taxable income (up to euros)</th>
<th>Tax rate applicable (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.00</td>
<td>0.00</td>
<td>12,450.00</td>
<td>19%</td>
</tr>
<tr>
<td>12,450.00</td>
<td>2,365.50</td>
<td>7,750.00</td>
<td>24%</td>
</tr>
<tr>
<td>20,200.00</td>
<td>4,225.50</td>
<td>15,000.00</td>
<td>30%</td>
</tr>
<tr>
<td>35,200.00</td>
<td>8,725.50</td>
<td>24,800.00</td>
<td>37%</td>
</tr>
<tr>
<td>60,000.00</td>
<td>17,901.50</td>
<td>Onwards</td>
<td>45%</td>
</tr>
</tbody>
</table>

As seen in the above chart, the maximum marginal rate for 2015 would be 47%, although it is higher or lower in some Autonomous Communities. For fiscal year 2016, however, it would be 45% (without taking into account the possible modifications made by the different autonomous communities).

Further, the savings component of net taxable income not corresponding to the remainder of the personal and family allowances will be taxed according to a scale of fixed rates. That means that the general national and autonomous community scale is as follows:

<table>
<thead>
<tr>
<th>Savings taxable income (euros)</th>
<th>2015 scale</th>
<th>2016 scale</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 6,000</td>
<td>20%</td>
<td>19%</td>
</tr>
<tr>
<td>From 6,000 to 50,000</td>
<td>22%</td>
<td>21%</td>
</tr>
<tr>
<td>From 50,000 onwards</td>
<td>24%</td>
<td>23%</td>
</tr>
</tbody>
</table>
The sum of the amounts resulting from applying the national and regional tax rates to the general net tax base and to the savings net tax base as described will determine the national and regional gross tax payable respectively.

2.2.13. Net tax payable and final tax payable: Tax credits

The national net tax payable and the autonomous community net tax payable are the result of deducting from the national and autonomous community gross taxes payable (in the relevant percentages) some tax credits, such as (i) the tax credit for investment in newly or recently formed companies, (ii) the tax credit for economic activities, (iii) the tax credits for donations, (iv) the tax credit for income obtained in Ceuta and Melilla, and (v) the tax credit for actions to protect and publicize Spanish historical heritage and that of cities, monuments and assets declared to be world heritage. The autonomous community net tax payable, moreover, will be calculated taking into account the tax credits which may be established by the autonomous community in question exercising its powers.

The application of the tax credits cannot lead the (national and autonomous community) net tax payable to be negative.

The final tax payable is the result of deducting from the total net tax payable (autonomous community plus national) the sum of the international double taxation credits, the withholdings, payments on account and split payments and the deductions of the underlying tax in relation to income attributed by international fiscal transparency or due to assignment of image rights.

The final tax payable may be reduced in turn by the maternity tax credit (subject to the limit of €1,200 annually), the deductions for large families or disabled dependent persons (with the limit of €1,200 or €2,400, depending on the case).

2.2.14. Withholdings

Payments of income from movable capital, gains on shares or units in collective investment undertakings, salary income, etc. are subject to withholding at source (or prepayment, in the case of compensation in kind) which is treated as a prepayment on account of the final tax.

The base and rate of withholding and prepayment for the main types of income are detailed in the table below:
### 2. Central government taxes

#### Table 7

**BASE, RATE OF WITHHOLDING AND PREPAYMENT FOR THE MAIN TYPES OF INCOME**

<table>
<thead>
<tr>
<th>Income</th>
<th>Base</th>
<th>Rate applicable in 2015</th>
<th>Rate applicable in 2016 onwards</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Salary income</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General (*)</td>
<td></td>
<td>See paragraph below table.</td>
<td>See paragraph below table.</td>
</tr>
<tr>
<td>Contracts of less than a year</td>
<td></td>
<td>Total compensation paid or satisfied.</td>
<td>See paragraph below table (minimum 2%).</td>
</tr>
<tr>
<td>Special dependent employment relationships</td>
<td></td>
<td>Minimum 18%.</td>
<td>Minimum 18%.</td>
</tr>
<tr>
<td>Board members</td>
<td></td>
<td>37%</td>
<td>35%</td>
</tr>
<tr>
<td>Courses, conferences and licenses on literary, artistic or scientific works</td>
<td></td>
<td>19%</td>
<td>18%</td>
</tr>
<tr>
<td><strong>Income from movable capital (</strong>)**</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General (***)</td>
<td></td>
<td>Gross consideration claimable or paid.</td>
<td>20%</td>
</tr>
<tr>
<td>Professional activities</td>
<td></td>
<td>19%</td>
<td>18%</td>
</tr>
<tr>
<td>Amount of income or consideration obtained</td>
<td></td>
<td>9%</td>
<td>9%</td>
</tr>
<tr>
<td><strong>Capital gains(****)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transfers or redemption of shares and holdings in collective investment undertakings</td>
<td></td>
<td>Amount to be included in the tax base calculated according to personal income tax legislation.</td>
<td>20%</td>
</tr>
<tr>
<td>Cash prizes</td>
<td></td>
<td>Amount of prizes</td>
<td>20%</td>
</tr>
</tbody>
</table>
### Table 7 (cont.)

BASE, RATE OF WITHHOLDING AND PREPAYMENT FOR THE MAIN TYPES OF INCOME

<table>
<thead>
<tr>
<th>Other income (**)</th>
<th>Lease/sublease of urban real estate.</th>
<th>Amount of income and rest of items paid to the lessor or sublessor (minus VAT).</th>
<th>20%</th>
<th>19%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income derived from intellectual property, industrial property, from the provision of technical assistance and from the lease or sublease of movable assets and businesses.</td>
<td>Gross income paid.</td>
<td>20%</td>
<td>19%</td>
<td></td>
</tr>
<tr>
<td>Authorization to use image rights.</td>
<td>Gross income paid.</td>
<td>20%</td>
<td>19%</td>
<td></td>
</tr>
</tbody>
</table>

(*) The withholding rate is reduced by two percentage points (without it being able to be negative), applicable to salary income of taxpayers who have notified the payer of their salary that a portion thereof is used to acquire or refurbish their principal residence for which they use external financing and in respect of which they will be entitled to the tax credit for investment in the principal residence, provided that the total amount of their expected annual income is less than €33,007.20.

(**) The establishment of a flat withholding tax/tax prepayment rate of 19% in these cases means that the tax difference between 19% and 21% (in the case of net tax bases exceeding €6,000) must be paid over when filing the relevant tax self-assessment.

(***) The amount of the tax prepayment to be made in respect of compensation in kind is calculated by applying the withholding rate to the result of increasing the acquisition value or the cost for the payer by 20%.

(****) In general, the withholding obligation will not exist if the transferor decides to reinvest the proceeds obtained on the transfer, acquisition or subscription of other shares or units in collective investment undertakings (deferral regime envisaged in article 94 of Law 35/2006).

In order to calculate the withholdings applicable to salary income, the procedure (explained simply) consists of taking the total gross salary income and reducing it by certain deductible expenses and reductions to determine the net salary income. The withholding tax scale (aggregation of the national and the autonomous community scales) is then applied to the result of the calculation. The same process must be followed with the personal and family allowances, applying the withholding scale to them. The difference between the two operations gives rise to the withholdings payable. The withholding rate applicable is then determined by dividing the withholdings by the total salary income.

#### 2.2.15. Formal obligations

The tax period coincides with the calendar year. However, if the taxpayer becomes deceased on any date other than December 31, the tax period will be shorter than the calendar year.
2. Central government taxes

Likewise, the tax becomes chargeable on December 31 of each year, unless the taxpayer becomes deceased on another day, in which case the tax becomes chargeable on the date of death.

Taxpayers who are required to file a personal income tax return (Form 100) must, when filing their returns, calculate the tax payable and pay it over in the place and manner and by the deadlines determined by the Ministry of Economy and Finance. The deadline is usually June 30.

Taxpayers who are married and not legally separated, and who are obliged to file a personal income tax return under which tax is payable, may request the suspension of their tax debt in an amount equal to or less than the refund to which their spouse is entitled for the same tax and in the same tax period.

2.3. Nonresident income tax

Nonresident income tax is currently governed by the Revised Nonresident Income Tax Law, approved by Legislative Royal Decree 5/2004, of March 5, and the Nonresident Income Tax Regulations approved by Royal Decree 1776/2004, as well as by the amendments included in Law 26/2014, all of which establish the tax regime applicable to nonresident individuals or entities that obtain Spanish-source income.

As a special aspect, the Revised Nonresident Income Tax Law establishes that nonresident individuals who prove that they are habitually resident in another EU country or in a Member State of the European Economic Area with which there is effective tax information exchange, and that they have obtained in Spain salary income and income from business activities that entails at least 75% of their worldwide income, or that have obtained in Spain income below 90% of the personal and family allowances that would have applied to them if they had been tax resident in Spain, and the income obtained outside Spain has also been below that allowance, may opt to be taxed as resident individuals (personal income tax).

The key factor in determining the tax regime for nonresidents is whether or not they have a permanent establishment in Spain.

2.3.1. Income obtained through a permanent establishment

Nonresident individuals or entities that obtain income through a permanent establishment located in Spain will be taxed on the total income attributable to said establishment, regardless of the place where it was obtained or produced.

The concept of permanent establishment in Spanish law is in line with the OECD Model Tax Convention. In the case of a foreign entity or individual resident in a country with which Spain has a tax treaty, the treaty provisions and, specifically, the exceptions to the definition of permanent establishment, will govern the existence of a permanent establishment in Spain.

One fundamental characteristic of permanent establishments is the lack of legal personality separate from that of the parent. Thus, there are not two economic beings with separate legal personality—as is the case of a parent and a subsidiary—but rather one subject with a single legal personality.
2. Central government taxes

that operates through different facilities, centers, offices, etc., one or more of which are located in Spain.

According to Spanish legislation — applicable where there is not a tax treaty, otherwise that treaty would apply— a permanent establishment exists where the nonresident entity:

1. Uses in Spain, under any legal arrangement, on a continuous or habitual basis, any kind of facilities or work places where it performs all or part of its activity.

2. Acts in Spain through an agent that has and habitually exercises an authority to conclude contracts in the name and for the account of the taxpayer.

In particular, the following are deemed to constitute a permanent establishment:

1. A place of management, branch, office, factory, warehouse, shop or other establishment.

2. A mine, oil or gas well, quarry.

3. Farming, forestry or fishing operations or any other place of extraction of natural resources.

4. Construction, installation or assembly works lasting more than six months.

In general terms, permanent establishments in Spain are taxed on their net income at the same rate as Spanish companies (in general, 28% in 2015 and 25% for 2016 onwards). Nonresident entities or individuals operating through a permanent establishment in Spain are required to withhold taxes or make tax prepayments on the same terms as resident individuals or entities (i.e. on salary income paid, income from movable capital satisfied, etc.).

However, if it is considered that the entity does not have a permanent establishment in Spain, it will be taxed on its income obtained in Spain pursuant to the regime for income obtained other than through a permanent establishment (See section 2.3.2 of this chapter for more detailed information).

There is a 19% tax (branch profit tax) on the remitted profits of nonresidents doing business through a permanent establishment in Spain. However, this tax is not chargeable according to the provisions of most of the tax treaties. For fiscal years 2015, the tax rate will be 20%.

In addition, this tax is not chargeable on (i) the income obtained in Spain by entities that are tax resident in another EU Member State (unless it resides in a tax haven) or (ii) the income obtained in Spain through permanent establishments by entities resident for tax purposes in a State that has signed a tax treaty with Spain which does not expressly provide otherwise, provided that there is reciprocal treatment.

This tax will therefore be additional to that already borne by the permanent establishment on its income (25% or 28% on revenues net of expenses).
Nonresidents who operate in Spain through a permanent establishment are generally required to keep accounting records here, in accordance with the rules and procedures established for Spanish companies.

The taxation of the income of permanent establishments envisages three different situations, as follows:

• As a general rule, taxable income is determined in accordance with the same regulations as are applicable to Spanish-resident companies and, accordingly, the tax rate of 25% (28% in 2015) would be applicable to net income. Allocated parent company general and administrative overhead expenses are deductible under certain conditions. The permanent establishment’s tax year will be the calendar year unless stated otherwise.

The tax period is also deemed to have ended in the event of the discontinuation of a permanent establishment’s business activities, withdrawal of the investment initially made in the permanent establishment, or the change of residence of the head office.

The permanent establishment may also take the tax credits and relief that might be applicable, in general, for Spanish resident companies.

• For permanent establishments engaging in installation or erection projects with a duration of over 6 months, for those with seasonal or sporadic activity, or for those engaged in the exploration of natural resources, the tax base is determined in accordance with the rules applicable to nonresidents obtaining income in Spain not through a permanent establishment. Such rules also apply in determining the tax return filing and tax accrual obligations of the permanent establishment, which is not obliged to keep books of account (but only documentary support of its transactions).

However, these nonresidents who operate through a permanent establishment in Spain may also choose to be taxed under the general rules, but such option may only be taken if separate accounts are kept in Spain. This choice must be made at the date of registration in the entities’ index.

• If the permanent establishment does not complete a business cycle in Spain which leads to income in Spain, and the business cycle is completed by the parent company (or the nonresident individual who operates in Spain through a permanent establishment) or by other permanent establishments, the tax liability is determined by applying the general taxation rules, whereby revenues and expenses are valued at market prices.

However, the tax base will secondarily be determined by applying the percentage established by the Ministry of Finance and Public Administrations for this purpose to the total expenses incurred, and by adding any “passive” (unearned) income not obtained in the normal course of business (interest, royalties, etc.) and any other capital gains arising from the assets assigned to the permanent establishment. This percentage has been set at 15%.
2. Central government taxes

The gross tax payable in this case is determined by applying the standard tax rate, but the tax credits and tax relief provided by the standard corporate income tax system may not be taken.

The tax period and tax return filing (Form 200) deadlines are those envisaged in the standard tax rules.

• Lastly, starting in 2015, there is an obligation to include in the tax base the difference between the normal market value and the book value of assets assigned to a permanent establishment that ceases its activity or which are transferred abroad.

The payment of the tax debt resulting in the case of assets transferred to a Member State of the European Union or of the European Economic Area with which there is an effective tax information exchange will be deferred by the tax authorities at the taxpayer’s request until the assets in question are transferred to third parties, and the provisions of the General Taxation Law 58/2003, of December 17, and its implementing legislation shall apply with regard to the charge of late-payment interest and the provision of guarantees for that deferral.

2.3.2. Income obtained other than through a permanent establishment

Nonresident entities or individuals that obtain income in Spain other than through a permanent establishment will be taxed separately on each total or partial accrual of Spanish-source income.

Spanish-source income obtained other than through a permanent establishment, as defined by the Nonresident Income Tax Law, consists mainly of the following items:

• Earnings derived from economic activities pursued in Spain.

• Earnings derived from the rendering of services where such services (i.e. studies, projects, technical assistance or management support services) are used in Spanish territory.

• Salary income, which is directly or indirectly derived from work performed in Spain.

• Interest, royalties and other income from movable capital which remunerate capital used in Spanish territory.

• Income from marketable securities issued by companies resident in Spain.

• Income from real estate located in Spain or from certain rights relating to that real estate.

• Capital gains on the sale of assets located in Spain and on the sale of securities issued by residents.

However, certain types of income originated in Spain are not taxable in Spain, most notably the following:

• Income paid for international sales of goods.
2. Central government taxes

- Income paid to nonresident persons or entities relating to permanent establishments located abroad, with a charge to these establishments, if the consideration paid is related to the activity of the permanent establishment abroad.

On the other hand, the following will be exempt:

- Interest and earnings derived from the transfer of equity to a third party, as well as capital gains on movable assets owned by residents of other EU Member States (except tax havens) obtained other than through a permanent establishment, by EU residents or by permanent establishments of those residents located in another Member State of the EU. However, capital gains on holdings in entities whose assets consist principally of real estate in Spain, or in which the seller has had, directly or indirectly, at least a 25% interest at some time during the twelve months preceding the sale, are taxable (this latter requirement only applies to individuals starting in 2015), or where the transfer does not meet the requirements to apply the exemption to avoid double taxation (domestic and international) established in corporate income tax legislation.

- Gains on transfers of securities or redemptions of participation units in mutual funds on official secondary securities markets in Spain obtained by nonresident individuals or entities without a permanent establishment in Spain that are resident in a State with which Spain has signed a tax treaty and with which there is effective exchange of tax information. The exemption does not apply when the nonresident entity resides in a country or territory classed as a tax haven.

- Yields derived from Spanish Government debt securities accruing to nonresident entities obtained not through a permanent establishment in Spain, unless they are routed through tax havens.

- Income derived from “nonresident accounts” paid by banks or other financial institutions to nonresident entities or individuals (unless payment is made to a permanent establishment in Spain of such entities) as well as that obtained not through a permanent establishment located in Spain and derived from the rental or assignment of containers or bare-boat charters and aircraft dry leases.

- Dividends from a Spanish subsidiary to its parent company resident in the EU or in a Member State of the European Economic Area, provided that certain requirements are met (among others, 5% holding owned for one year, or an acquisition value of the holding above €20 million).

This rule is not applicable if the parent company is located in a tax haven, or when a majority of the voting rights of the parent company is held directly or indirectly by an individual or legal entity not resident in the EU or in a Member State of the European Economic Area with which there is effective exchange of tax information, on the terms established in subarticle 4 of additional provision one of Law 36/2006, of November 29, 2006, on tax fraud prevention measures, unless the formation and operation of the parent is based on valid economic grounds and substantive business reasons.
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- Royalties paid by a Spanish resident company (or by a permanent establishment in Spain of a company resident in another Member State of the EU or of the European Economic Area) to a company resident in another EU Member State (or to a permanent establishment of an EU resident company in another Member State), where certain requirements are met.

In 1991 the Spanish tax authorities identified 48 territories classified as tax havens. These include such “traditional” havens as the Bahamas, Liechtenstein, Monaco, Gibraltar, etc. The Royal Decree which approved such list is still in force (See regulations on tax havens in the Corporate Income Tax Law).

Spanish law generally sets tax rates lower than the standard rate for residents for income accruing to nonresidents that do not have a permanent establishment in Spain. The tax is normally levied on the gross income, except for income for services rendered, technical assistance and installation and erection projects, in which case the tax is levied on the difference between the gross income and the payroll, material procurement and supplies expenses as defined in the relevant regulations. In this connection, nonresidents operating in Spain not through a permanent establishment are obliged to withhold and make payments on account from salaries paid as well as other payments subject to withholding or payment on account which can be considered deductible expenses in order to determine the nonresident income obtained in Spain.

Capital gains are generally calculated on the basis of the difference between acquisition cost and sale price, to which the same rules as those established for resident individuals are generally applicable.

Moreover, purchasers of property located in Spain from nonresidents that do not have a permanent establishment in Spain must deduct withholding tax at 3% from the purchase price on account of the vendor’s capital gains tax liability.

If the transferred property was acquired by the transferor more than two years prior to December 31, 1996, for withholding tax purposes it should be considered the application of the abatement coefficients described in the section on Personal Income Tax, with the new limits discussed therein.

There are also certain exceptions to this obligation to make a withholding, such as cases in which the property is transferred as a non-monetary contribution for the formation of, or capital increase at, a company resident in Spain.
The tax rates are as follows:

<table>
<thead>
<tr>
<th>Type of Income</th>
<th>Rate (%) applicable in 2015</th>
<th>Rate (%) applicable in 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>General:</td>
<td>24 (*)</td>
<td>24 (*)</td>
</tr>
<tr>
<td>• Dividends</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Interest</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Income derived from the transfer or redemption of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>securities representing the capital or equity of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>collective investment undertakings</td>
<td>20</td>
<td>19</td>
</tr>
<tr>
<td>Special cases:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Income from reinsurance transactions</td>
<td>1.5</td>
<td>1.5</td>
</tr>
<tr>
<td>• Income from maritime or air navigation entities</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>• Capital gains</td>
<td>20</td>
<td>19</td>
</tr>
<tr>
<td>• Foreign seasonal workers</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>

(*) The rate is 19% for taxpayers resident in another Member State of the EU or of the European Economic Area with which there is effective exchange of tax information (20% in 2015).

The tax rates applicable to retirement pensions obtained by a nonresident individual will vary between 8% for amounts of up to €12,000, 30% for the following €6,700 and 40% for amounts in excess of €18,700.

Royalty payments to entities or permanent establishments residing in the EU are subject to a 0% rate since July 1, 2011.

In the case of nonresidents without a permanent establishment in Spain there is no possibility of offsetting losses against future profits or capital gains. Moreover, a nonresident without a permanent establishment can only deduct from the tax payable the amount of the taxes withheld from its income and the amounts corresponding to gifts and allowances as described in the Personal Income Tax Law for resident individuals.

Liability for nonresident income tax arises whenever Spanish-source income becomes claimable by the nonresident entity or is paid, whichever is earlier; as for capital gains, liability arises when they are generated and in the case of income attributed to urban real estate, on December 31.

In general, a separate tax return (Form 210, Nonresident Income Tax. Nonresidents without a permanent establishment. Ordinary return) and supporting documentation must be filed within one month from the above date.

At the request of the taxpayer, the tax authorities can place at its disposal, merely for information purposes, draft tax returns (notwithstanding the taxpayer’s obligation to file the return and pay the tax debt), exclusively in relation to the real estate income attributed deriving from urban property.
2. Central government taxes

located in Spain and not used in economic activities, with the limits and conditions established by
the Ministry of Finance and Public Administrations.

A draft return will be generated for each property that gives rise to the attribution of real estate
income.

The Law also establishes a general obligation of making withholdings and prepayments on account
of the income paid to nonresidents by entities, professionals and traders who are resident in Spain.
Some exceptions to this general rule are envisaged in the Law and the Regulations.

In cases where there is a withholding obligation, the tax return filed by the withholding agent
releases the taxpayer from the obligation to file the return, and vice versa.

In most cases the above-mentioned tax returns can be filed monthly or quarterly grouping together
different types of income obtained during the preceding period.

2.3.3. Tax regime for nonresident employees assigned to Spain (inbound expatriates)

Spanish personal income tax legislation contains a very attractive regime for personnel assigned to
Spain due to labor reasons by multinational companies, since it allows individuals who become tax
resident in Spain as a result of their assignment to Spain to opt to be taxed either under personal
income tax rules or under nonresident income tax rules during the tax period in which their tax
residence changes and for the next five tax periods. Under the nonresident income tax rules option,
they are only taxed on the income and/or gains that are deemed to have been obtained in Spain, at
a fixed rate (which is increased for income of above €600,000).

The requirements necessary to apply this regime are as follows:

• The inbound expatriate must not have been resident in Spain during the 10 tax periods preceding
  his or her assignment to Spain.

• The assignment to Spain must be the result of an employment contract.

• The individual must not obtain income that would be classified as obtained through a permanent
  establishment in Spain.

This regime does not apply to professional athletes; but it does apply for the first time (as from 2015)
to persons who acquire the status of director of an entity in which they do not own holdings (or in
which they own holdings but to which they are not related).

The tax debt will be determined according to the provisions of the Revised Nonresident Income
Tax Law for the income obtained other than through a permanent establishment with various
particularities:

1. The exemptions established in nonresident income tax legislation will not apply.

2. All of the taxpayer’s salary income will be deemed obtained in Spain.
2. Central government taxes

3. The income items obtained in the calendar year will be taxed on a cumulative basis, without the possibility of offsetting them against each other.

4. Dividends, interest and capital gains derived from the transfer of assets will be taxed separately from the rest of income, according to the scale specified previously for savings income: 19%, 21% and 23%. However, transitonally, in 2015, the rates will be 20%, 22% and 24%.

5. The rest of income will be taxed according to the following scale:

<table>
<thead>
<tr>
<th>Net taxable income</th>
<th>Rate 2015</th>
<th>Rate 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to €600,000</td>
<td>24%</td>
<td>24%</td>
</tr>
<tr>
<td>From €600,000 onwards</td>
<td>47%</td>
<td>45%</td>
</tr>
</tbody>
</table>

6. The withholding rate on salary income will be 24%. However, where the income paid by the same payer during the calendar year exceeds €600,000, the withholding rate applicable to the excess will be 45% (47% in 2015).

In order to exercise the option to be taxed under this regime, it is necessary to notify the tax authorities within six months following the date of commencement of the employment that is stated in the notice informing the social security authorities that the employee was hired.

The regime described will apply as from 2015 and entails important changes with respect to that which existed up to 2014. For that reason, the new law establishes that taxpayers transferred to Spain prior to January 1, 2015, can elect to apply the regime in force as of December 31, 2014, by notifying the tax authorities.

Lastly, it should be underlined that personal income taxpayers that elect to apply this special regime can request a tax residence certificate in Spain.

2.3.4. Capital gains due to a change of residence (”exit tax”)

Law 26/2014 brings in a new regime whereby, for Personal Income Tax payers who lose taxpayer status due to a change of residence, positive differences between the market value of shares held by the taxpayer in any type of entity and their acquisition value will be deemed capital gains (in the savings base), provided the taxpayer has had taxpayer status for at least 10 of the 15 tax periods prior to the latest tax period for which PIT must be declared and any of the following circumstances concur:

1. The market value of the shares exceeds a total of €4,000,000 for all the shares considered as a whole.

2. Otherwise, on the accrual date of the latest tax period for which PIT must be declared, the stake in the entity exceeds 25%, provided that the market value of the shares in that entity exceeds €1 million. In this case, this scheme will only apply to the shares held in these entities.
2. Central government taxes

In the case of taxpayers that have opted to apply the special tax scheme for workers relocated to Spain (for more information, see section 2.3.3 above), the 10 tax periods referred to above will begin as from the first tax period in which the special scheme is not applicable.

Capital gains will be allocated to the final tax period for which PIT must be declared; if applicable, a supplementary tax return must be filed, without any default interest or penalty.

The capital gain will be calculated using the market value of the shares which, (i) in the case of listed shares will be their listed price; and (ii) in the case of unlisted shares will be the higher of the equity value in the latest balance sheet closed prior to the accrual date and the result of capitalizing at 20% the average results for the three financial years closed prior to the accrual date (including in the calculation dividends paid out and amounts apportioned to reserves, barring regularization or fixed asset restatement reserves). Additionally, (iii) shares in collective investment institutions will be valued at their cash value on the accrual date of the latest period for which PIT must be declared or, failing this, at the latest cash value published (in the absence of this value, at the equity value in the balance sheet for the latest financial year closed prior to the accrual date, barring evidence of a different market value).

Certain special rules are provided for cases in which (i) the change of residence is the consequence of a temporary work posting to a country or territory that is not classed as a tax haven or for any reason provided that, in this case, the worker is posted temporarily to a country or territory with which Spain has concluded an international double taxation treaty containing an information exchange clause (in this case, payment of the liability may be deferred for a maximum period, which may be extended); (ii) residence changes to a different European Union Member State or a country within the European Economic Space with this there is effective exchange of tax information (in such cases, the company may opt to self-assess the gain only in certain circumstances).

This regime will also be applicable when residence changes to a country or territory classed as a tax haven an the taxpayer does not lose resident status in accordance with the residence rules stipulated in the PIT Law.

2.3.5. Tax treaties

Tax treaties may reduce, or even completely eliminate, the taxation in Spain on the income earned by entities which do not have a permanent establishment here.

Companies without a permanent establishment in Spain which are resident in countries with which Spain has a tax treaty are generally not taxed in Spain on their business income earned here, nor for capital gains (other than on real estate).

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13 For more detailed information, visit web page www.aeat.es, section “Fiscalidad internacional”.

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However, capital gains on the sale of shares of companies can be taxed in Spain under the special clauses of certain treaties (including most notably shares of real estate companies, transfers of shares when a substantial interest is held, etc.).

Certain other types of income (royalties, interest or dividends) are taxed at reduced treaty rates in force.

Currently, there are various treaties which are at different stages of negotiation or coming into force. Among them, the treaties with Namibia, Nigeria, Peru and Syria. Additionally, certain treaties are currently being renegotiated.

- Tax sparing arrangements

Due to the existence under Spanish regulations of relief from the tax on certain types of income (mainly interest income), the tax sparing arrangements contained in many of Spain’s tax treaties are relevant. Under these arrangements the nonresident lender benefits from tax sparing, and therefore can deduct in its country not only the effective tax withheld in Spain from the interest but also the tax that would have been payable had relief not been provided by Spain.

2.3.6. Tax on property in Spain of nonresident companies

Companies resident in a country or territory classed as a tax haven that own real estate in Spain are subject to an annual tax of 3% on the cadastral value of the property at December 31 each year.

This tax does not apply to:

- International bodies and foreign States and public institutions.

- Companies that pursue in Spain, on a continuous or habitual basis, economic activities other than the simple holding or lease of real estate.

- Companies that are listed on official secondary securities markets.

2.3.7. Tax representative

Nonresidents (i) obtaining income in Spain through a permanent establishment, or (ii) obtaining income in Spain from economic activities which do not constitute a permanent establishment and provide entitlement to the deduction of certain expenses, or (iii) which are entities subject to the pass-through regime and carry on business activities in Spain, all or a portion of which is carried on by them, continuously or habitually, through installations or workplaces of any kind, or which act in Spain through an agent authorized to conclude contracts in the name and for the account of the entity, (iv) when they are specifically required to do so by the tax authorities because of the nature or the amount of income obtained, or (v) persons and entities resident in countries or territories with which there is no effective exchange of information, that there are owners of property situated or rights which are fulfilled or exercised in Spain (except for securities listed on organized secondary markets), are required to appoint a Spanish resident as their tax representative before the end of the
2. Central government taxes

period for reporting income obtained in Spain. The appointment must be notified to the authorities within two months. Failure to appoint a representative or to notify the authorities can lead to a fine of €2,000. Such penalty will amount to €6,000 for those taxpayers residing in countries or territories with which there is no effective exchange of information.

The tax representatives (if residents) of permanent establishments are deemed to be the persons registered as their representatives in the Commercial Register, or the persons empowered to contract on their behalf.

Persons who, pursuant to the Nonresident Income Tax Law, are tax representatives of permanent establishments of nonresident taxpayers, or tax representatives of pass-through entities, are jointly and severally liable for paying over the tax debts relating to them.

The payer of income accrued without the intermediation of a permanent establishment by nonresident taxpayers, or the depositary or manager of the assets or rights of nonresident taxpayers not used by a permanent establishment, will also be jointly and severally liable for the payment of tax debts relating to income paid by him or to income and/or gains from assets or rights whose safekeeping or management has been entrusted to him.

This liability will not exist where the payer or manager is subject to the obligation to withhold and prepay tax (since they already have such specific obligation and the responsibility that from it could eventually derive).

The depositary or the party managing the assets of a nonresident or paying income to a nonresident are jointly and severally liable for the tax liabilities arising from those assets or on such income when there is no obligation of withholding.

2.4. Wealth tax

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

The Law establishes an exemption from wealth tax for some assets, for example, those forming part of Spanish Historical Heritage; household furnishings, works of art and antiques, provided that their value does not exceed certain limits established by the legislation; vested rights of participants in pension plans and rights with economic content relating to similar social welfare systems; the work of an artist while it forms part of the artist’s assets; assets or rights necessary for the direct, personal and habitual performance of a business or professional activity which constitutes the taxpayer’s main source of income; and some holdings in the capital of certain entities (mainly family businesses). The taxpayer’s principal residence is also exempt, up to a maximum amount of €300,000.

The Law establishes different methods for valuing each type of asset.
With regard to the scale of rates established for this tax, in the absence of regulation by the autonomous community in question, the following tax rates will apply:

<table>
<thead>
<tr>
<th>Net taxable income (up to euros)</th>
<th>Tax payable (euros)</th>
<th>Rest of net taxable income (up to euros)</th>
<th>Tax rate applicable (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.00</td>
<td>0.00</td>
<td>167,129.45</td>
<td>0.2</td>
</tr>
<tr>
<td>167,129.45</td>
<td>334.26</td>
<td>167,123.43</td>
<td>0.3</td>
</tr>
<tr>
<td>334,252.88</td>
<td>835.63</td>
<td>334,246.87</td>
<td>0.5</td>
</tr>
<tr>
<td>668,499.75</td>
<td>2,506.86</td>
<td>668,499.76</td>
<td>0.9</td>
</tr>
<tr>
<td>1,336,999.51</td>
<td>8,523.36</td>
<td>1,336,999.50</td>
<td>1.3</td>
</tr>
<tr>
<td>2,673,999.01</td>
<td>25,904.35</td>
<td>2,673,999.02</td>
<td>1.7</td>
</tr>
<tr>
<td>5,347,998.03</td>
<td>71,362.33</td>
<td>5,347,998.03</td>
<td>2.1</td>
</tr>
<tr>
<td>10,695,996.06</td>
<td>183,670.29</td>
<td>onwards</td>
<td>2.5</td>
</tr>
</tbody>
</table>

These rates apply to residents on their worldwide assets, and to nonresidents on their assets or rights located or exercisable in Spain.

Moreover, in the absence of autonomous community regulations, the maximum exemption and the threshold after which it is obligatory to file a wealth tax return is €700,000.

The gross wealth tax payable, together with the personal income tax payable on the general component and the savings component of income, may not exceed, for resident taxpayers, 60% of their total taxable income subject to personal income tax. For this purpose, the following will not be taken into account: (i) the portion of savings income derived from capital gains and losses relating to the positive balance of gains obtained on transfers of assets acquired more than one year before transfer date, or the portion of gross personal income tax payable on that part of savings income, and (ii) the portion of wealth tax relating to assets which, because of their nature or use, are not capable of producing income taxed under the Personal Income Tax Law.

If the sum of both taxes payable were to exceed the aforementioned limit, the wealth tax payable would be reduced to that limit, without that reduction exceeding 80%.

It is important to bear in mind that some autonomous communities have modified the exempt amounts while in others the tax is not payable (as in the Madrid autonomous community) because a 100% reduction applies.

However, there will be an obligation to file a tax return even if the tax payable is not positive, where the value of the assets or rights exceeds €2,000,000.

Due to the adaptation of the judgment of the Court of Justice of the European Union, of September 3, 2014 (case C-127/12), the provision has been amended to establish that nonresident
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taxpayers, that are resident in a Member State of the EU or of the European Economic Area, shall be entitled to apply the legislation approved by the autonomous community where the greatest value of their assets and rights are located and for which the tax is claimed, because they are located, can be exercised or must be fulfilled in Spain.

2.5. Inheritance and gift tax

Inheritance and gift tax applies to Spanish resident heirs, beneficiaries and donees and is charged on all assets received (located in Spain or abroad). Nonresident beneficiaries are also subject to this tax as nonresident taxpayers, and must pay the tax in Spain only on the acquisition of assets and rights (whatever their nature), that are located, exercisable or to be fulfilled in Spain.

The tax base is formed by the net value of the assets and rights acquired. However, a series of reductions to the tax base are established, which include, most notably, the following:

- Reduction of 95% of the tax base deriving from a transmission “mortis causa” to spouses, children or adopted children or, in their absence, ascendants, foster parents or collateral relatives up to the third degree of a professional business, an individual enterprise, or interests in entities or usufruits on them of the donor or deceased which were exempt from wealth tax. The requirements are as follows:
  — The beneficiary of a transmission “mortis causa” must keep the assets received for at least 10 years.
  — The beneficiary cannot carry out transactions that result in a substantial diminution in the value of the assets.

- Reduction of 95% of the tax base for “inter vivos” transfers of interests in an individual enterprise, professional business or in entities belonging to the donor which are exempt from wealth tax (or which meet the requirements for such exemption) to spouses, descendants or adopted children provided moreover that (i) the donor is at least 65 years old or has a permanent disability, and (ii) if the donor had been discharging management duties, he/she must discontinue them and stop receiving remuneration in that connection.

The tax is calculated by adjusting a tax scale of progressive rates (depending on the value of the estate or gift) with a coefficient that takes into account the previous net worth and the degree of kinship with the donor.

As with other taxes devolved to the autonomous community governments, inheritance and gift tax legislation has been adapted to recognize the legislative power of those governments to approve reductions in the tax base and rates and in the coefficients for adjusting the tax payable, based on the taxpayer’s previous net worth. However, Law 22/2009, of December 18, establishes the reductions, rates and coefficients to be applied if the autonomous community in question has not assumed the powers devolved, or where it has not yet made any regulations, in that connection.
2. Central government taxes

The tax rates and adjustment coefficients applicable for 2015 (in the absence of rates and coefficients specifically approved by the relevant autonomous community) are the following:

<table>
<thead>
<tr>
<th>Tax Base (up to euros)</th>
<th>Tax Payable (euros)</th>
<th>Remaining Tax Base (up to euros)</th>
<th>Applicable Rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.00</td>
<td>7,993.46</td>
<td>7,993.46</td>
<td>7.65%</td>
</tr>
<tr>
<td>7,993.46</td>
<td>611.50</td>
<td>7,987.45</td>
<td>8.50%</td>
</tr>
<tr>
<td>15,980.91</td>
<td>1,290.43</td>
<td>7,987.45</td>
<td>9.35%</td>
</tr>
<tr>
<td>23,968.36</td>
<td>2,037.26</td>
<td>7,987.45</td>
<td>10.20%</td>
</tr>
<tr>
<td>31,955.81</td>
<td>2,851.98</td>
<td>7,987.45</td>
<td>11.05%</td>
</tr>
<tr>
<td>39,943.26</td>
<td>3,734.59</td>
<td>7,987.46</td>
<td>11.90%</td>
</tr>
<tr>
<td>47,930.72</td>
<td>4,685.10</td>
<td>7,987.45</td>
<td>12.75%</td>
</tr>
<tr>
<td>55,918.17</td>
<td>5,703.50</td>
<td>7,987.45</td>
<td>13.60%</td>
</tr>
<tr>
<td>63,905.62</td>
<td>6,789.79</td>
<td>7,987.45</td>
<td>14.45%</td>
</tr>
<tr>
<td>71,893.07</td>
<td>7,943.98</td>
<td>7,987.45</td>
<td>15.30%</td>
</tr>
<tr>
<td>79,880.52</td>
<td>9,166.06</td>
<td>39,877.15</td>
<td>16.15%</td>
</tr>
<tr>
<td>119,757.67</td>
<td>15,606.22</td>
<td>39,877.16</td>
<td>18.70%</td>
</tr>
<tr>
<td>159,634.83</td>
<td>23,063.25</td>
<td>79,754.30</td>
<td>21.25%</td>
</tr>
<tr>
<td>239,389.13</td>
<td>40,011.04</td>
<td>159,388.41</td>
<td>25.50%</td>
</tr>
<tr>
<td>398,777.54</td>
<td>80,655.08</td>
<td>398,777.54</td>
<td>29.75%</td>
</tr>
<tr>
<td>797,555.08</td>
<td>199,291.40</td>
<td>Upwards</td>
<td>34.00%</td>
</tr>
</tbody>
</table>

Some autonomous communities, however, have established reductions which result in a tax payable of zero (or close to zero). This applies to inheritances and/or gifts, depending on the autonomous community, in the case of “close” heirs or donees (children, grandchildren, spouses, ascendants).

With regard to the place where the tax must be settled, a distinction must be made, in general, between transmissions mortis causa and inter vivos:

- **Transmissions mortis causa**: as a general rule, in the autonomous community in which the deceased was habitually resident.\(^{14}\)

- **Transfers inter vivos**: as a general rule, in the autonomous community where the acquirer is habitually resident, except in the case of real estate for which the place will be the autonomous community where the property is located.\(^{15}\)

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\(^{14}\) For nonresident decedents, the power is generally attributed to the Madrid Office.

\(^{15}\) For real property transactions, the power is attributed to the autonomous community where the real property transmitted is located.
2. Central government taxes

These general location rules were applicable until recently to taxpayers resident in Spain; non-residents had to be taxed under State legislation in any event (which on many occasions caused discrimination because, as indicated, some Autonomous Regions have implemented significant rebates). Following the European Court of Justice’s Judgment of 3 September 2014 (Case C-127/12), specific connection points have been established for taxpayers resident in the European Union or in the European Economic Space. Accordingly:

1. When a deceased person has been a resident in a European Union (EU) Member State or in a country in the European Economic Space, other than Spain, taxpayers will be entitled to apply the regulations approved by the autonomous community in which the largest portion of the value of the assets and rights forming the deceased’s estate is located in Spain. If there are no assets or rights located in Spain, each taxpayer will be subject to the regulations of the Autonomous Region in which the taxpayer resides.

2. When the deceased has been a resident in an Autonomous Region and the taxpayers are not residents but reside in a country of the European Union or European Economic Space, the taxpayers will be entitled to apply the regulations approved by that Autonomous Region.

3. In the event of the acquisition of real property located in Spain by donation or any other legal business for no consideration inter vivos, non-resident taxpayers who are resident in a country of the European Union or European Economic Space will be entitled to apply the legislation approved in the Autonomous Region in which the real property is located.

4. In the event of the acquisition of real property located in a Member State of the European Union or in a country of the European Economic Space, other than Spain, by donation or any other legal business for no consideration inter vivos, taxpayers resident in Spain will be entitled to apply the legislation approved in the Autonomous Region in which they reside.

5. In the event of the acquisition of moveable property located in Spain by donation or any other legal business for no consideration inter vivos, non-resident taxpayers who are resident in a country of the European Union or European Economic Space will be entitled to apply the legislation approved in the Autonomous Region in which the moveable property has been located for the highest number of days during the immediately previous five-year period, counted from date to date, ending on the day prior to the accrual of the tax.

Specific rules are provided to calculate tax payable in the case of donations in which, in a single document, the same donor donates different assets or rights to the same donee and the regulations of different Autonomous Regions are applicable in accordance with the rules explained above.

2.6. Spanish Value Added Tax

The EU VAT Directives have been implemented in Spanish law (Law 37/1992, in force since January 1, 1993), and the main provisions of these Directives are harmonized in the different Member States of the European Union. That legislation has been recently amended by Law 28/2014, of November 27, 2014, amending Value Added Tax Law 37/1992, of December 28, 1992, Law 20/1991,
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VAT is an indirect tax, and its main feature is that it does not normally entail any cost for traders or professionals, only for the end consumer, since traders or professionals are generally entitled to offset their input VAT against their output VAT.

Within Spain, VAT is not applicable in the Canary Islands, Ceuta and Melilla.

In the Canary Islands, the Canary General Indirect Tax (“IGIC”), in force since January 1, 1993, is very similar to VAT and is an indirect tax levied on the supply of goods and services in the Canary Islands by traders and professionals and on imports of goods. The general IGIC rate is 7%.

Ceuta and Melilla charge a different indirect tax of their own (tax on production, services and imports).

2.6.1. Taxable transactions

The following transactions are subject to VAT when they are carried out by traders and professionals in the course of their business:

- Supplies of goods, generally defined as the transfer of the right to dispose of tangible property, although certain transactions not involving a transfer of this kind may also be treated as supplies of goods for the purposes of VAT.

- Intra-Community acquisitions of goods (generally, acquisitions of goods dispatched or transported to Spanish VAT territory from another Member State).

- Imports of goods: These transactions are subject to VAT regardless of who performs them.

- Supplies of services.

2.6.2. VAT rates and exemptions

VAT rates are as follows:

The standard rate is 21%, applicable to most supplies of goods and services.

However, there is a reduced rate of 10% applicable to supplies, intra-Community acquisitions and imports of the following, among others:

- Foodstuffs intended for humans or animals, not including alcoholic beverages.

- Water.

- Housing.

- Certain pharmaceutical specialties.
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and to the following services, among others:

• Transportation of passengers and their luggage.
• Entry to libraries.

There is also a very reduced rate of 4% applicable to:

• Bread, flour, milk, cheese, eggs, fruit and vegetables.
• Books, newspapers and magazines that are not mainly composed of advertising.
• Medicine for human use cars for persons with disabilities.
• Prostheses for persons with disabilities.
• Certain subsidized housing.

Certain transactions are exempt from VAT (for example, financial and insurance transactions, medical services, educational services, rental of housing). Since the trader or professional performing these activities does not charge VAT on them, they do not give the right to deduct input VAT, as described further on in this report, although there are other exempt transactions (mainly those relating to international trade, such as exports) that do confer the right to deduct input VAT.

2.6.3. Place of supply of taxable transactions

Spanish VAT is charged on the transactions referred to above which are deemed to be supplied in Spanish VAT territory.

The Law provides rules for determining the place where the various transactions are deemed to take place.

• Supplies of goods: The general rule is that the goods are deemed to be supplied in Spanish VAT territory where they are handed over to the recipient in Spain. However, if the goods are transported in order to be handed over to the recipient, the supply will be deemed to be made in the place where the transportation commences. There are other exceptions to the general rule, such as those established for supplies of goods to be installed or assembled, etc.

• Supply of services: As a general rule, services will be deemed to be supplied at the recipient’s place of business or permanent establishment, where the recipient is a trader or professional; however, if the recipient is a final consumer, the services will be deemed to be supplied at the supplier’s place of business.

There are, however, exceptions to this general rule:

— Services related to real estate are deemed to be supplied in the place where the property is located. This rule also applies to services of accommodation at hotels, camping sites and spas.
2. Central government taxes

— Transportation services (intra-Community or otherwise) are deemed supplied at the recipient’s place of business, and it is no longer necessary to provide the VAT number that was required in some cases until now.

— Services consisting of passenger transportation (whatever the recipient’s status) and of the transportation of goods (except intra-Community transportation) where the recipient is the final consumer, are taxed proportionately to the distance covered within Spanish VAT territory.

— The intra-Community transportation of goods to final consumers will be taxed in Spain the transportation begins within that territory.

— Certain services are deemed to be supplied in Spain where they are physically performed in Spanish VAT territory. This is the case, among others, of cultural, artistic, sports, scientific, educational, recreational and similar activities. The same rule applies to ancillary transportation services and to work on movable tangible property, experts’ reports, etc. where the recipient is not a trader (if he is, the general rule will apply, i.e., the place of supply is the recipient’s place of business).

— Services supplied electronically and telecommunications and television and radio broadcasting services will be deemed to be supplied at the recipient’s place of business (whether it is the final consumer or a trader), unless they are supplied by a non-EU supplier and the services are used or operated in Spain.

In order to facilitate the compliance with the tax obligations deriving from the aforementioned rule, in the case of services supplied to final consumers, two optional special regimes are established that permit taxable persons to pay the tax owed for the supply of those services through a website (“one-stop shop”) in the Member State where they are identified, thus avoiding having to be registered in each Member State where they carry out transactions (Member State of consumption). A distinction is made between:

- Non-EU regime: applicable to traders or professionals that have no type of permanent establishment or obligation to be identified for VAT purposes in any Member State of the Community. It is an extension of the special regime for services supplied electronically, established in the deleted articles 163 bis and 164 quater of the VAT Law, to telecommunications, TV and radio broadcasting services. The Member State of identification will be that chosen by the trader.

- EU regime: applicable to EU traders or professionals that supply telecommunications, TV and radio broadcasting services to final consumers in Member States where they do not have their place of business or a permanent establishment. The Member State of identification will be that where they have their place of business or a permanent establishment.
2. Central government taxes

— Restaurant and catering services will be deemed to be supplied in Spain:
  ■ Where supplied on board a vessel, an aircraft or a train during the section of a transport operation effected within the EU, if the transportation begins within Spanish VAT territory. In the case of a return trip, the return leg is regarded as a separate transport operation.
  ■ In the rest of restaurant and catering services, where they are physically supplied in Spanish VAT territory.
— The short-term hiring (30 days in general and 90 days in the case of vessels) of means of transportation will always be taxed where such means are placed at the recipient’s disposal.
— Lastly, intermediation services will continue to be taxed where the main transaction is deemed to be performed, if the recipient is not a trader. Otherwise, the general place-of-supply rule (recipient’s place of business) will apply.

2.6.4. Permanent establishment

As mentioned above, the definition of “place of business” and permanent establishment are relevant when determining the place where transactions subject to VAT are carried out. Additionally, as described below, they are also relevant for defining the taxable person of such transactions.

On this basis, where a permanent establishment exists in Spanish VAT territory—on the terms defined below—and this establishment intervenes in the performance of transactions subject to VAT, the transaction will be deemed located in Spanish VAT territory and, therefore, the establishment will be deemed the taxable person for VAT purposes, with the resulting obligations (register for VAT purposes, charge the tax, meet invoicing obligations, file returns, etc.).

Another of the main implications deriving from the fact of having a permanent establishment in Spanish VAT territory is the regime that applies for the refund of the VAT borne. In this regard, if a permanent establishment exists, the general refund regime will apply, while if there is not a permanent establishment, the special refund regime for nonestablished traders must be used, which involves initiating a proceeding to obtain a refund of the VAT borne.

Place of business is defined in the Law as the place where the taxable person centralizes the management of, and habitually exercises, his business or professional activity.

Permanent establishment is defined as any fixed place of business from which a trader or professional carries on business activities\(^\text{16}\). In particular, the following are deemed permanent establishments for VAT purposes:

- The place of management, branches, offices, factories, workshops, facilities, stores and, in general, agencies or representative offices authorized to conclude contracts in the name and for the account of the taxable person.

\(^\text{16}\) Following the entry into force of the new place-of-supply rules, the so-called “force of attraction” of permanent establishments is limited so that an activity will only be attributable to a permanent establishment if it “acts” in the supply of services, that is, where material or human resources attributable to the permanent establishment are organized for the purpose of performing the transaction.
2. Central government taxes

- Mines, quarries or tips, oil or gas wells or other places of extraction of natural products.
- A construction, installation or assembly project which lasts for more than twelve months.
- Farming, forestry or livestock operations.
- Facilities operated on a permanent basis by a trader or professional for the storage and subsequent delivery of his merchandise.
- Centers for purchasing goods or acquiring services.
- Real estate operated under a lease or any other arrangement.

It is noteworthy that although the definition and cases in which a permanent establishment is deemed to exist are similar for purposes of direct taxes and VAT, they do not fully coincide.

According to the above, in cases where a permanent establishment exists in Spanish VAT territory, insofar as it is located in that territory and deemed a VAT taxable person, it must meet the following obligations:

1. File returns relating to the commencement, modification and cessation of the activities that determine the applicability of the tax.
2. Request from the tax authorities a tax identification number and communicate and report it in the cases established.
3. Issue and deliver invoices or equivalent documents for its transactions and keep a duplicate thereof.
5. File periodically, or at the request of the tax authorities, information relating to its business transactions with third persons.
6. File the relevant tax returns and pay over the resulting tax. Also taxable persons must file an annual summary return.

2.6.5. Taxable person

The taxable person is the person with an obligation to charge or pay over VAT. This obligation normally lies with the trader or professional that performs the supplies of goods or services or other transactions subject to VAT.

There are, however, some exceptions in which the taxable person is the recipient in the transaction. This is generally the case of transactions, located in the Spanish VAT territory, in which the person...
performing them does not have a place of business or permanent establishment in Spanish VAT territory and the recipient is a trader or professional, regardless of whether or not he is established in Spanish VAT territory.

In the last years, new cases of reversal of liability have been established (applicable to transactions for which the VAT becomes chargeable on or after October 31, 2012) in relation to (i) certain exempt supplies of real estate in which the VAT exemption is waived, (ii) supplies of real estate to enforce security interests in real estate and accord and satisfaction in whole or in part, and (iii) certain works of construction and loaning of personnel to perform the work, it being necessary in these cases for the recipient to expressly communicate in a legally valid manner, and prior to or simultaneously with the performance of the transactions, that the requirements are met for the reversal of liability to apply.

That communication can be made through a written statement signed by the recipient, under its own responsibility, and addressed to the trader or professional that makes the supply. On this basis, the recipient is able to invoke the joint liability established in the VAT Law for those who, by action or omission, whether due to willful misconduct or negligence, avoid the correct charge of the tax.

More recently, starting on April 1, 2015, the foregoing list will include some cases of supplies of (i) silver, platinum and palladium, (ii) mobile phones, and (iii) videogame consoles, portable computers and digital tablets.

Besides, the VAT Law reform has introduced, starting on January 1, 2015, a new regime for deferral of the VAT on imports through the inclusion of those amounts in the tax return of the period in which the document evidencing the assessment made by the tax authorities is received.

It is an optional regime that may be applied by taxable persons whose tax period coincides with the calendar month (i.e., companies subject to the monthly refund regime, those whose volume of transactions in the preceding calendar year exceeds €6,010,121.04, or those that apply the VAT grouping scheme, among other cases).

Apart from the obligation to charge VAT, the taxable person must also:

- File notifications relating to the commencement, modification and end of activities.
- Request a tax identification number from the tax authorities and notify and evidence it in the cases established.
- Issue and deliver an invoice for all its transactions.
- Keep accounting records and official books (specific VAT books)\(^\text{17}\).

\(^{17}\) Effective starting on January 1, 2009, for operators that elect to apply the monthly refund regime, and starting in January 2012, for all other operators, they must mandatorily file their returns telematically.
2. Central government taxes

- File periodically, or at the request of the authorities, information relating to its business transactions with third parties.

- File tax returns (monthly or quarterly, depending on its volume of transactions, and an annual summary return).

- Appoint a representative in order to comply with its obligations where the taxable person does not have an establishment in Spanish VAT territory. This obligation only applies to traders that are not established in the EU, unless they are established in a State with which Spain has mutual assistance arrangements in place.

2.6.6. Taxable amount

In general terms, the taxable amount for VAT purposes is the total consideration for the transactions subject to VAT received from the recipient or from third parties.

VAT legislation also establishes a series of special rules on determining the taxable amount, including rules on self-supplies of goods or services and on cases where the parties are related to each other (the taxable amount consists of the normal market value).

2.6.7. Deduction of input VAT

Under Spanish VAT law taxable persons are generally entitled to deduct their input VAT from their output VAT, provided that the goods and services acquired are used to perform the following transactions, among others:

- Supplies of goods and services subject to and not exempt from VAT.

- Exempt transactions which give entitlement to a deduction, with the aim of securing that traders act neutrally in intra-Community or international trade (e.g. exports).

- Transactions performed outside Spanish VAT territory which would have given rise to the right to deduct had they been performed within that territory. In general, the input tax paid on the acquisition or import of goods or services that are not used directly and exclusively for business or professional activities may not be deducted, although there are specific rules such as those relating to the tax paid on capital goods (partial offset).

The right to deduct input VAT is also subject to formal requirements and may be exercised within four years.

There are several deduction systems, and the main features of each are as follows:

1. General deductible proportion rule.

   This rule applies when the taxable person makes both supplies of goods or services giving rise to the right to deduct and other transactions which do not (e.g. exempt financial transactions).
2. Central government taxes

Effective from January 1, 2006, the effect of subsidies on the right to deduct VAT was eliminated.

Under the deductible proportion rule, input VAT is deductible in the proportion which the value of the transactions giving the right to deduct bears to the total value of all the transactions carried out by the taxable person in the course of his business or professional activity.

In other words, the percentage of deductible VAT is determined under the following formula:

\[
\text{Percentage of deductible VAT} = \left( \frac{\text{Transactions entitling to deduction}}{\text{Total transactions}} \right) \times 100
\]

The resulting percentage is rounded up.

Effective starting on January 1, 2014, and in force indefinitely, the transactions carried out from permanent establishments outside the Spanish VAT territory will be excluded from the calculation of the general deductible proportion regardless of where the costs for performing the transactions have been borne or incurred.

2. Special deductible proportion rule.

This system is generally elected by the taxable person (the election must normally be made in the month of December prior to the year in which it will apply). The basic features of this deduction system are the following:

- VAT paid on acquisitions or imports of goods and services used exclusively for transactions giving the right to deduct may be deducted in full.
- VAT paid on acquisitions or imports of goods and services used exclusively for transactions not giving the right to deduct may not be deducted.
- VAT paid on acquisitions or imports of goods and services used only partly for transactions giving the right to deduct, may be deducted in the proportion resulting from applying the general deductible proportion rule.

Moreover, the special deductible proportion will apply obligatorily where the total sum of deductible VAT in a calendar year by application of the general deductible proportion rule exceeds by 10% or more that which would result by application of the special deductible proportion rule.

3. Deduction system for different sectors of business activity.

Where the taxable person carries on business activities in different sectors, it has to apply the relevant deductible rules to each of those activities separately.

“Business activities in different sectors” means activities classed in different groups in the National Classification of Business Activities and the deduction systems applicable to them are
2. Central government taxes

also different (this requirement is deemed to be met, among other cases, where under the general deductible proportion rule, the percentage of deductible VAT differs by more than 50 percentage points).

In such a case, the taxable person must apply the general or the special deductible proportion rule, on the terms described above, in each of the business sectors. The VAT paid on acquisitions or imports of goods and services that cannot be specifically allocated to any of the activities will be deducted in the general deductible proportion resulting from its activities as a whole.

It should be noted that starting in 2015, the calculation of the general deductible proportion applicable to common input VAT, in the deduction system for different sectors of business activity, excludes the volume of transactions under the special VAT grouping scheme.

2.6.8. Refunds

If the VAT charged exceeds the amount of deductible VAT, the taxable person must pay over the difference in its periodic (monthly or quarterly) returns.

If, conversely, the amount of deductible VAT exceeds the amount of VAT charged, the taxable person may request a refund of the excess which, as a general rule, can only be claimed in the last return for the year.

However, provided certain regulatory requirements are met, taxable persons who register on the Monthly Refund Register may claim a refund of the balance existing at the end of each assessment period.

Registering on this Refund Register carries with it the obligation to file VAT returns monthly by telematic means (regardless of the taxable person’s turnover) as well as to file VAT books telematically.

The period for obtaining the refund is six months from the end of the period for filing the last return of the year (January 30 of the immediately following year) as a general rule and from the end of the period for filing monthly returns in the case of taxable persons registered on the Monthly Refund Register.

There are specific rules on the refund of VAT paid in Spain by traders that are not established in Spanish VAT territory. To obtain refunds in these cases, the following requirements must be met:

- Persons applying for a refund must be established in the European Union or, otherwise, must evidence a reciprocal arrangement in their country of origin for traders or professional established in Spain (in other words, Spanish traders would obtain a refund of an equivalent tax in their country of origin).

Said reciprocity requirement has disappeared with the approval of Law 28/2014, for the tax borne on restaurant, hotel and transport services linked to the attendance at trade fairs, conferences and exhibitions and the access to them, as well as in relation to the acquisition or import of molds, templates or equipment used to manufacture goods which are exported to a nonestablished trader, provided that such equipment is also exported or destroyed when no longer used.
2. Central government taxes

- A trader that is not established must not have carried out transactions in Spanish VAT territory that would make it qualify as a taxable person.

- Unlike taxable persons established in the European Union, those persons who are not established in the European Union must appoint a representative, resident in Spanish VAT territory; the representative will be responsible for fulfillment of the relevant formal and procedural requirements and will be jointly and severally liable in the case of incorrect refunds and sufficient security may be sought from it for these purposes.

- Input VAT is refundable in Spain if it was paid on acquisitions of goods and services or imports of goods used to perform transactions that give the right to deduct (both in Spain and in the country where the trader is established).

Refund claims may only be related to the immediately preceding year or quarter, and the time limit for filing them is September 30 of the following year\(^\text{18}\), and it may not be less than €400 if the claim is filed quarterly, or less than €50 if it is annual.

2.6.9. Special VAT cash-basis accounting scheme

Starting on January 1, 2014, and due to the approval of Law 14/2013, a new “Special VAT cash-basis accounting scheme” has been implemented which can be applied by taxable persons with a volume of transactions not exceeding two million euros in the preceding calendar year. Once the taxable person has elected to apply it, it shall be deemed extended save for waiver (which will have a minimum validity of three years) or exclusion therefrom due to one of the causes listed in the law.

For an operator that elects to apply this scheme, the chargeable event in all its transactions (except for certain ones established in the law) arises when the total or partial price is collected, in respect of amounts effectively received, with a limit of December 31 of the year after that in which the transaction was carried out, at which time the tax will be chargeable in all cases even if the price has not been collected.

This cash-basis accounting scheme also affects the VAT borne by the taxable persons that elect to apply it, meaning that they can only deduct VAT when the payment is made.

Due to the amendment of the rules on the chargeability in transactions carried out under this special scheme, the deduction of VAT borne by any trader or professional (even though it has not elected to apply it) that receives supplies of goods or services made by operators that apply the scheme will be deferred until the payment or, as the case may be, until December 31 of the year after that in which the transaction was carried out.

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\(^{18}\) A new procedure has been established whereby applications for refunds by EU traders not established in Spain must be submitted via the electronic portal set up for that purpose by their own tax authorities.
2. Central government taxes

The new rules on the chargeable event in supplies of goods and services by operators subject to the special scheme are accompanied by changes in relation to invoicing obligations, the content of the VAT registers and the information to be provided in the informational returns on transactions with third parties, which are basically summarized as follows:

- Regarding invoicing obligations, it is necessary to include a specific reference to the application of the special scheme.

- Regarding the content of the VAT registers, certain additional content is included (payment/collection dates, amounts and means of payment used) in order to permit monitoring the application of the specific rules on the chargeable event, both at operators subject to the special scheme and at the recipients of the invoices.

- A dual system is used for recording those transactions in the informational return of transactions with third parties.

2.6.10. Special VAT grouping scheme

This system is the result of the transposition into Spanish legislation of the option, set out in the EU VAT Directive, to treat entities that are sufficiently related financially, economically and from an organizational standpoint, as a single taxable person.

“Sufficiently related” is defined in the law as applying to a parent company (which cannot be the subsidiary of another company in Spanish VAT territory, on the terms described) and the entities over which it has effective control, either because it holds a direct or indirect interest in their capital stock of at least 50%, or because it owns a majority of the voting rights, maintained throughout the calendar year, provided that the entities included in the group have places of business or permanent establishments located in Spanish VAT territory.

This system is optional and applies for at least three years, which term is automatically extendible, and any potential waiver of the system also applies for at least three years.

The option must be elected by the parent company prior to commencement of the calendar year in which it must take effect. The decision to elect the special system must be adopted by the boards of directors of each of the entities that will belong to the group.

In its simplest form, the system merely consists of the ability to aggregate the individual VAT returns of the group companies that elect to apply the system, so that the balances of offsettable or refundable VAT of some companies may be offset immediately against the balances of tax payable belonging to the others, thereby reducing or eliminating any financial expense resulting from reporting balances to the tax authorities, for which a refund cannot be claimed as a general rule until the final tax return of the year.
Optionally, group companies may request to use a specific method for determining the taxable amount, deductions and waiver of exemptions in intra-group transactions.

Under this specific method, the taxable amount would be any direct or indirect costs incurred in whole or in part in supplying goods or services to group companies, provided VAT has actually been paid on them (the costs on which no VAT has been paid cannot be included).

This optional method also envisages the power to waive certain exemptions that may be applicable to intra-group transactions, a power which may be exercised on a case-by-case basis for each transaction, and a special system is established for making deductions.

As a general rule, the special system for groups of companies establishes a series of specific obligations for the parent company of the group, such as, for example, the obligation to keep a cost accounting information system and prepare a report supporting the allocation method used (in the case of the extended version of the system).

The head company must file a joint return once all the individual returns of the group entities have been filed. VAT is settled on a monthly basis, regardless of the volume of transactions.

The group of entities may also elect to apply the new monthly refund regime, in which case the parent company will be responsible for filing the relevant census declaration.

**2.6.11. Formal obligations**

In general, the tax becomes chargeable (i) in supplies of goods, when they are placed at the disposal of the acquirer (or, as the case may be, when the supply is made according to applicable legislation), and (ii) in supplies of services, when the taxable transactions are carried out, executed or fulfilled. However, in case of advance payments, the tax becomes chargeable when the price is collected in full or in part, on the amounts actually received.

Generally, the VAT period coincides with the calendar quarter, and VAT returns must be filed in the first twenty calendar days of the month following the tax period, that is, from 1 to 20 of April, July and October, and from 1 to 30 of January for that relating to the fourth quarter. Along with the fourth quarter VAT return, the annual VAT recapitulative statement (Form 390) must be filed.

However, in cases in which the volume of transactions of the taxable person in the immediately preceding calendar year calculated according to the provisions of the VAT Law, has exceeded €6,010,121.04, or if the taxable person is subject to the special regime for groups of entities mentioned in the preceding section, the tax period will coincide with the calendar month. In addition, along with the return for December, the annual VAT recapitulative statement (Form 390) must be filed.

These VAT returns must be filed telematically.
2.6.12. Invoicing obligations

The invoicing obligations are a basic element of the application and settlement of VAT. In this regard:

• The invoice is the means which taxable persons must use to fulfill the obligation to charge VAT to the recipient of the taxable transaction.

  The obligation to issue and deliver an invoice for each transaction carried out applies to all traders and professionals. The trader or professional who issues the invoice must also keep a copy or counterfoil of the invoice.

• The recipient of a transaction subject to VAT must be in possession of an invoice in order to be able to deduct the VAT borne.

In accordance with Spanish legislation, the obligation to issue an invoice applies not only to traders or professionals but also to those who do not have that status but who are VAT taxable persons, and in respect of the supplies of goods and services made in the performance of their business which are deemed located in Spanish VAT territory, even if they are not subject to or are exempt from VAT.

As stated in the section in which we analyzed the concept of permanent establishment, the fact of having an establishment in Spanish VAT territory that intervenes in the performance of transactions subject to VAT means, among other obligations, that due to being established in Spanish VAT territory, it must register for VAT purposes and issue invoices for the transactions in which it participates. For these purposes, the establishment will have the same consideration as a Spanish entity.

As regards the content of invoices, they must contain (in general and except in certain specific cases) the following data:

1. Number and series, if any. The numbering of the invoices within each series must be correlative.
2. Issuance date.
3. First and last names, business name or complete corporate name of the party obliged to issue the invoice and of the recipient of the transaction.
4. Tax identification number attributed by the Spanish tax authorities or by those of another member State of the EU, with which the party obliged to issue the invoice has performed the transaction.
5. Tax identification number of the recipient, in the following cases:
   — Exempt intra-Community supplies.
   — Transaction in which the recipient is the VAT taxable person thereof (reverse charge mechanism).
2. Central government taxes

— Transactions performed in Spanish VAT territory where the trader or professional obliged to issue the invoice is deemed established in that territory.

6. Address of the party obliged to issue the invoice and of the recipient of the transaction.

7. Description of the transaction, specifying all the data necessary to determine the VAT taxable amount and the VAT payable, including the transaction unit price without VAT, and any discount or reduction not included in that unit price.

8. Tax rate/s applied to the transactions, including, as the case may be, the compensatory charge rate, which must be specified separately.

9. The VAT payable, if any, specified separately. That amount must be expressed in euros.

10. The date of performance of the transactions documented in the invoice or, as the case may be, the date on which the advance payment has been received, provided that it is different from the invoice issuance date.

The invoice must be issued in the following periods:

• As a general rule, at the time the transaction is performed.

• If the recipient of the transaction is a trader or professional acting as such, before the 16th day of the month following the tax return period in which the transaction has been carried out.

2.7. Transfer tax and stamp tax

Transfer tax is levied on a limited number of transactions, including most notably:

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<tr>
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<th>Tax Rate (*)</th>
<th>(%)</th>
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<tr>
<td>Corporate transactions (**)</td>
<td>1</td>
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<tr>
<td>Transfers of real estate</td>
<td>6</td>
<td></td>
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<tr>
<td>Transfers of movable assets and administrative concessions</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Certain rights on real estate (mainly guarantees, pensions, security or loans)</td>
<td>1</td>
<td></td>
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<tr>
<td>Certain mercantile law public deeds</td>
<td>0.5</td>
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(*) The Autonomous Communities are entitled to opt to apply a different rate in certain cases. In fact, most of them have opted to apply a 7% rate to real estate transfers, and a 1.5% rate of Stamp Tax to certain transactions.

(**) At present, business restructuring transactions, company formations, capital increases, shareholder contributions in general and certain transfers of the place of effective management or registered office are not taxed.

However, if the vendor is a company or an individual real estate developer, the transfer of buildable land or the first supply of buildings is taxed under VAT. Second and subsequent supplies of real
2. Central government taxes

Estate by companies, traders or professionals in the course of their activity may opt to pay either transfer tax or VAT. This option is applicable if the acquirer is a trader or professional who can deduct all his VAT borne and the vendor waives to the VAT exemption, in which case, the acquirer will pay VAT rather than transfer tax (this option was only possible if the recipient could deduct all of the VAT borne, although starting on January 1, 2015, it will suffice for the right to the deduction to be partial, even if due to the expected use of the goods transferred).

Transfers of shares of Spanish companies are generally exempt from any indirect taxation. However, they can trigger taxation under VAT/transfer tax if real estate companies are transferred (that is, companies in which more than 50% of the assets are real estate located in Spain not assigned to business or professional activities) where the control of those entities is acquired, if it is considered that the transfer is carried out with an “avoidance aim”. An “avoidance aim” is presumed to exist (unless proven otherwise) where the acquirer obtains control of a real estate company and its real estate (or the real estate of the real estate companies owned by that company, the control of which is acquired) is not assigned to economic activities.

In these cases, the transaction will be subject to VAT or to transfer tax, as appropriate.

It should be noted, lastly, that unlike VAT, transfer tax entails a cost for the acquirer/beneficiary.

2.8. Excise taxes

In Spain there are several excise taxes in line with the EU Directives on this matter, such as (i) excise taxes on consumption (spirits and alcoholic beverages, beer, oil and gas and tobacco products)\(^{19}\), (ii) special tax on certain means of transport (also applicable in the Canary Islands, Ceuta and Melilla), or (iii) electricity tax (applicable throughout Spain), which is levied on the intra-EU production, importation and acquisition of electricity.

2.9. Customs duties on imports

Most customs duties levied in Spain are standard-rate duties which are generally payable on imports when the goods clear customs. With very few exceptions the duties are “ad valorem”, i.e. on CIF or similar invoice value. The rest are minor customs duties relating to storage and deposit rights and the sale of abandoned goods.

The “Harmonized Goods Classification System” and the CEE\(^{20}\) Tariff (TARIC) have been in force in Spain since 1987. Also, since Spain’s accession to the EU, only the exemptions established by the EU have been applicable.

\(^{19}\) In general, these special taxes are not applicable in the Canary Islands, Ceuta and Melilla (the special taxes on spirits and beer are also applicable in the Canary Islands).

\(^{20}\) Actual EU.
2. Central government taxes

2.10. Tax on insurance premiums

This is an indirect tax which is levied in a single payment on insurance and capitalization transactions based on actuarial techniques and arranged by insurance entities operating in Spain, including those operating under the principle of freedom to provide services.

2.11. Reporting obligations relating to assets and rights abroad

The law regulates an obligation to report assets and rights abroad has been introduced in the legislation for individuals and legal entities (including pass-through entities) resident in Spain or nonresident with a permanent establishment.

This obligation affects accounts, securities (including insurance and life or temporary annuities) and real estate or rights over real estate, with certain quantitative and qualitative exceptions.

Although this is a purely formal obligation to be met each year in relation to information referring to the preceding year (the first return to be filed being that relating to the fiscal years ending on or after October 29, 2012), the failure to fulfill this obligation or the incorrect or late fulfillment of this obligation is subject to a costly penalty regime.

In addition, if this obligation is not fulfilled in a timely manner, the income detected will be deemed undisclosed income or an unjustified capital gain, attributable to the last earliest period of those not statute-barred, even if it can be proven that the income was generated before that, unless it is evidenced that the income was reported and tax was paid on it.

The general return period runs from January 1 to March 31 of the year following that for which the return is filed.
3. Special regimes of certain Autonomous Communities

3. SPECIAL REGIMES OF CERTAIN AUTONOMOUS COMMUNITIES

3.1. Canary Islands tax regime

The Canary Islands enjoy tax benefits intended to compensate for the disadvantages brought about by insularity and distance from the Spanish mainland and the main goal of which is to attract investments to the Canary Islands.

That regime has been renewed for the period 2015 to 2010 through the approval of Royal Decree-Law 15/2014, of December 19, amending the Canary Islands Economic and Tax Regime, including some improvements in relation to the former regime which mainly affect the regulation of the Canary Islands Investment Reserve (RIC) and the Canary Islands Special Zone.

A major change resulting from the authorities’ new approach in relation to State aid, is the discontinuation of the system for notification and subsequent authorization by the EU, which has been replaced by a mechanism to adapt the incentives included in the Canary Islands tax regime as a whole to Community legislation.

The regime is basically as follows:

3.1.1. Direct Taxation

- There is a reduction of 50% of the portion of gross tax payable that relates to income from the sale of tangible goods specific to agricultural, livestock farming, industrial or fishing activities, provided that they have been produced by the taxpayer itself in the archipelago.

- The tax credit for investment in fixed assets consisting of 25% of the investment up to a limit of 50% of tax payable net of tax reductions and double taxation credits remains in force.

- The tax credits rates for investments made in the Canary Islands are higher than those applicable to investments in the Spanish mainland.

- The taxable amount is reduced (by up to 90% of undistributed income per books for the year) by amounts recorded to a special reserve (RIC): the RIC must be invested within a period of up to three years. The RIC and can be invested in certain investments (to create or expand establishments, acquire certain assets, including the subscription of shares or other securities); these investments must be related (according to the requirements which are expressly regulated) with activities or entities/establishments in the Canary Islands.

- In addition, two new tax credits have been created for entities domiciled in the Canary Islands (with an average workforce of 50 employees and revenues below €10 million):
  a) Tax credit for investments in territories of western Africa (Morocco, Mauritania, Senegal, Gambia, Guinea-Bissau and Cape Verde).
3. Special regimes of certain Autonomous Communities

That tax credit is 15% of the amounts invested in setting up subsidiaries or permanent establishments, with an increase in average workforce in the Canary islands. In the case of subsidiaries, they must be owned by companies with registered office in the Canary Islands.

b) Tax credit of 15% of expenses for advertising and publicity, product launches, opening and researching markets abroad and attending trade fairs and the like.

- The law establishes an increase from 32% to 45% in the tax credit for technological innovation through activities carried out in the Canary Islands.

- Canary Islands Special Zone:

Canary Islands legislation also regulates the special tax regime of the Canary Islands Special Zone (ZEC), authorized in January 2000 by the European Commission, due to considering its application compatible with the provisions regulating the Single Market. The renewal of this tax incentive was included in the negotiation process on the Directives 2007-2013, establishing that the ZEC would remain in force until December 31, 2019 for authorizations granted up to December 31, 2013, although with minor modifications. Recently, the application of this special regime has been extended until 2026, and the period for requesting authorization runs until December 31, 2020.

The regime is applicable to newly formed entities and branches domiciled in the Canary Islands that are registered on the Official Register of Entities in the ZEC. Registered entities and branches must meet certain requirements, such as (i) having their registered office in the Canary Islands, (ii) having at least one director residing in the Canary Islands, (iii) having as their corporate purposes the performance of the economic activities expressly established in the law (financial activities being excluded in all cases), or (iv) creating a minimum number of jobs within the first six months following authorization, and keeping an annual average headcount of at least that number throughout the period in which the regime applies.

In the current renewal of the Canary Islands Economic and Tax Regime, the list of activities that may benefit from the ZEC regime has been broadened and its territorial scope has been extended to the Canary Islands as a whole, meaning that the restriction of the regime to the activities carried out in certain geographical areas has been eliminated.

The regime also requires (v) making a minimum amount of investments in the first years, through the acquisition of tangible or intangible assets located or received in the geographical area of the ZEC and which are used and necessary to perform the activities carried out in that area; and (vi) filing with the authorities a descriptive report on the activities to be carried out which supports their feasibility, international competitiveness and their contribution to the economic and social development of the islands, the content of which will be binding for the entity.

Pursuant to the tax regime, the income obtained by the ZEC entities derived from the transactions carried out will be subject to corporate income tax at a single special tax rate of 4%. This reduced
tax rate only applies up to a certain amount of tax base, depending on the activity carried out and the jobs created. Moreover:

— Under the regime in force up to 2014, the shareholders (legal entities) of a ZEC entity that were tax residents in Spain did not have a right to the tax credit for double taxation for the dividends distributed by the ZEC entity where they came from income that was taxed at the reduced rate.

However, in the reform of the Canary Islands Economic and Tax Regime, starting on January 1, 2015, that restriction has been corrected and it is now possible to take the tax credit for domestic double taxation on the dividends relating to holdings in ZEC entities coming from income that has been taxed at the reduced rate of 4%, and on the income obtained on the transfer of ZEC entities.

— The interest, capital gains and dividends obtained by nonresidents with holdings in ZEC entities are exempt from nonresident income tax in Spain on the same conditions as for residents in the EU, where that income is paid by a ZEC entity and comes from transactions physically and effectively carried out in the geographical scope of the ZEC. These exemptions will not apply only where the income and capital gains are obtained through countries or territories classed by regulations as tax havens, or where the parent has its tax residence in those territories.

The ZEC entities enjoy an exemption from transfer and stamp tax in relation to the acquisitions of assets and rights to be used by the taxpayer to perform its activity, provided they are located, can be exercised or must be met in the geographical scope of the ZEC.

Moreover, the supplies of goods and services carried out between ZEC entities, and imports of goods made by ZEC entities will be exempt from Canary Islands general indirect tax.

3.1.2. Indirect taxation

For indirect tax purposes, rather than VAT, the Canary Islands General Indirect Tax (IGIC), which is similar to VAT, applies at the standard rate of 7%.

The tax on imports and supplies of goods in the Canary Islands (AIEM) also applies to the production and import in the Canary Islands of certain tangible goods.

Lastly, there are certain incentives in indirect taxation: for example, in transfer tax under the “transfers for a consideration” heading, an exemption applies to acquisitions of capital goods and of intangible assets (for 50% of the investment, except in the case of small and medium-size enterprises) which fall within the definition of initial investment mentioned previously in relation to the RIC, where certain requirements are met (article 25 of Law 19/1994).
3. Special regimes of certain Autonomous Communities

3.2. Special regime applicable in the Basque Country

The Economic Accord with the Autonomous Community Government of the Basque Country recognizes the power of the institutions of the provinces of the Basque Country (Álava, Guipúzcoa and Vizcaya) to regulate taxes. In general, they have full or shared regulatory authority in the area of direct taxation, but far more limited authority in the indirect taxation area.

The institutions of the provinces of the Basque Country also have the power to levy, manage, assess, inspect, review and collect taxes, except with respect to import duties and excise taxes on imports.

The Economic Accord regulates the applicable connecting factors in order to determine which body of laws, namely, those pertaining to Spain (excluding the Basque Country and Navarra) or those pertaining to the provinces of the Basque Country and to Navarra, apply to taxpayers and the powers to collect and inspect each tax, with revenue-raising power being shared in some cases between various tax authorities.

The specific characteristics of the main taxes of each of the Historical Territories are contained in the following legislation.

- Corporate income tax:

- Personal income tax:
3. Special regimes of certain Autonomous Communities

- Inheritance and gift tax:

- Wealth Tax:
  - Guipúzcoa: Provincial Law 10/2012, of December 18, 2012, of Tax on Wealth and Large Fortunes. This law creates a new tax which replaces wealth tax, albeit with similar regulations.
  - Wealth tax has been reinstated in the three Historical Territories only for fiscal years 2011 and 2012.

3.3. Special regime applicable in Navarra

Financial and tax dealings between Central Government and the Provincial Government of Navarra are governed by the Economic Agreement, with terms and conditions and powers similar to those under the Economic Accord. In this case, as in the case of the special regime in the Basque Country, the features of each tax are contained in their specific legislation:

4. Local taxes

4. LOCAL TAXES

The Revised Local Finances Law approved by Legislative Royal Decree 2/2004, of March 5, establishes a scheme aimed at rationalizing the local taxation system and facilitating the activity of local entities. Under this legislation, local authorities are empowered to modify some aspects of this type of taxes. This Law establishes two different types of municipal taxes, which can be classified as follows:

- Periodic taxes, among them:
  - Tax on real estate (impuesto sobre bienes inmuebles).
  - Tax on business activity (impuesto sobre actividades económicas).

- Other taxes:
  - Tax on erection and installation projects and construction works (impuesto sobre construcciones, instalaciones y obras).
  - Tax on increase in urban land value (impuesto sobre el incremento del valor de los terrenos de naturaleza urbana).

4.1. Periodic taxes

1. Tax on real estate

This tax is levied annually on owners of real estate or on holders of rights “in rem” over real estate based on the cadastral value determined pursuant to the Property Cadastre regulations, at different rates up to a maximum of 1.30% for urban property and 1.22% for rural property.

Nonetheless, the tax rates applicable to urban real estate have been raised (for fiscal years 2014 and 2015).

2. Tax on business activity

This tax is levied annually on any business activity conducted within the territory of the municipality.

However, the following taxpayers are exempted from this tax:

- Individuals.

- Taxpayers who start a business activity within Spanish territory, during the two first tax periods in which they carry on the activity.

- Taxpayers subject to corporate income tax and entities without legal personality whose net sales (at group level according to article 42 of the Commercial Code) in the previous year were under €1 million.
4. Local taxes

— In the case of taxpayers subject to nonresident income tax, the exemption will only apply to those operating in Spain through a permanent establishment, provided that they obtained net sales of under €1 million in the previous year.

The tax payable is calculated on the basis of various factors (type of activity, area of premises, net revenues, etc.). The minimum tax rates published by the Government can be adapted by the municipal authorities.

4.2. Other taxes

1. Tax on erection and installation projects and construction work

This tax is levied on the actual cost of any work or construction activity that requires prior municipal permission, excluding VAT and any similar taxes.

The tax rate will be set by each municipal council up to a top rate of 4%, and the tax falls due at the start of the project regardless of whether the permit has been obtained.

2. Tax on increase in urban land value

This tax is levied on the increase disclosed in the value of urban land whenever land is transferred.

— Taxpayer: in transfers for consideration, the transferor, and in donations, the transferee.

— Tax rate: the rate set by each municipal council and capped at 30%.

— Tax base: the increase in the value of the land. The tax base is determined by reference to the value of the land when the tax falls due, which in the transfer of land will be the value that has been determined for the purposes of property tax. Certain annual percentages will be applied to this value based on the ownership period, which will be determined by each municipal council, and may not be higher than the following limits: (i) Between one and five years: 3.7; (ii) Up to 10 years: 3.5; (iii) Up to 15 years: 3.2; (iv) Up to 20 years: 3.

This tax is deductible for personal income tax purposes from the transfer value of real estate.
## Exhibit I: Corporate income tax incentives for investment

<table>
<thead>
<tr>
<th>Tax incentives applicable to the tax base</th>
<th>Tax credits applicable to tax payable</th>
</tr>
</thead>
</table>
|  - Accelerated depreciation/amortization (See section 2.1.2.7 of this chapter for more detailed information).  
  - Unrestricted depreciation/amortization. (See section 2.1.2.7 of this chapter for more detailed information).  
  - Special regime applicable to finance lease agreements. (See section 2.1.2.7 of this chapter for more detailed information).  
  - Partial exemption for income derived from the licensing of certain intangible assets (Patent box) (See section 2.1.2.12 of this chapter for more detailed information). |  - Tax credit for job creation for disabled workers (See section 2.1.4.1 of this chapter for more detailed information).  
  - Tax credit for job creation (See section 2.1.4.1 of this chapter for more detailed information).  
  - Tax credits for investment (See section 2.1.4.1 of this chapter for more detailed information):  
    - Tax credit for investment in R&D&i.  
    - Other tax credits for investments made in Spanish film or audiovisual productions; investment of profits for enterprises of a reduced size. |
## Exhibit II. Treaty tax rates

### EXHIBIT II: TREATY TAX RATES

Table 13

<table>
<thead>
<tr>
<th>Recipient Company’s Country of Residence</th>
<th>Type of Income</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Dividends (%)</td>
<td>Interest (%)</td>
</tr>
<tr>
<td><strong>Albania</strong></td>
<td>0, 5 or 10</td>
<td>6</td>
</tr>
<tr>
<td><strong>Algeria</strong></td>
<td>15 or 5</td>
<td>5 or 0</td>
</tr>
<tr>
<td><strong>Argentina</strong></td>
<td>15 or 10</td>
<td>12 or 0</td>
</tr>
<tr>
<td><strong>Armenia</strong></td>
<td>10 or 0</td>
<td>5</td>
</tr>
<tr>
<td><strong>Australia</strong></td>
<td>15</td>
<td>10</td>
</tr>
<tr>
<td><strong>Austria</strong></td>
<td>15 or 10</td>
<td>5</td>
</tr>
<tr>
<td><strong>Barbados</strong></td>
<td>0 or 5</td>
<td>0</td>
</tr>
<tr>
<td><strong>Belgium (</strong>)</td>
<td>15 or 0</td>
<td>10 or 0</td>
</tr>
<tr>
<td><strong>Bolivia</strong></td>
<td>15 or 10</td>
<td>15 or 0</td>
</tr>
<tr>
<td><strong>Bosnia Herzegovina</strong></td>
<td>10 or 5</td>
<td>7</td>
</tr>
<tr>
<td><strong>Brazil</strong></td>
<td>15</td>
<td>15, 10 or 0</td>
</tr>
<tr>
<td><strong>Bulgaria</strong></td>
<td>15 or 5</td>
<td>0</td>
</tr>
<tr>
<td><strong>Canada</strong></td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td><strong>Czech Republic</strong></td>
<td>15 or 5</td>
<td>0</td>
</tr>
<tr>
<td><strong>Chile</strong></td>
<td>10 or 5</td>
<td>15 or 5</td>
</tr>
<tr>
<td><strong>China</strong></td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td><strong>China (Hong Kong)</strong></td>
<td>0 or 10</td>
<td>5</td>
</tr>
<tr>
<td><strong>Colombia</strong></td>
<td>5/0</td>
<td>10</td>
</tr>
<tr>
<td><strong>Cost Rica</strong></td>
<td>12 or 5</td>
<td>10 or 5</td>
</tr>
<tr>
<td><strong>Croatia</strong></td>
<td>15 or 0</td>
<td>8</td>
</tr>
<tr>
<td><strong>Cuba</strong></td>
<td>15 or 5</td>
<td>10 or 0</td>
</tr>
<tr>
<td><strong>Cyprus</strong></td>
<td>5 or 0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Denmark</strong></td>
<td>15 or 0</td>
<td>10</td>
</tr>
<tr>
<td><strong>Dominican Republic</strong></td>
<td>10 or 0</td>
<td>10 or 0</td>
</tr>
<tr>
<td><strong>Ecuador</strong></td>
<td>15</td>
<td>0 or 5 or 10</td>
</tr>
</tbody>
</table>

21 The tax rates established in each tax treaty are indicated. The applicability of one or another depends, in each case, on the specific requirements established in each tax treaty.

22 The previous tax treaty between Spain and Argentina which took effect on July 28, 1994, was denounced unilaterally by Argentina and ceased to have effect on January 1, 2013. However, the new tax treaty, signed on March 11, 2013, establishes its effects from January 1, 2013 (meaning that for practical purposes there is no period not covered by a treaty).

23 Published on May 26, 2014, and entered into force on May 28, 2014.

24 Denmark decided to terminate the Treaty with Spain as of January 1, 2009.
### Exhibit II. Treaty tax rates

<table>
<thead>
<tr>
<th>Recipient Company’s Country of Residence</th>
<th>Type of Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dividends (%)</td>
<td>Interest (%)</td>
</tr>
<tr>
<td>----------------</td>
<td>----------------</td>
</tr>
<tr>
<td><strong>Egypt</strong></td>
<td>12 or 9</td>
</tr>
<tr>
<td><strong>El Salvador</strong></td>
<td>12 or 0</td>
</tr>
<tr>
<td><strong>Estonia</strong></td>
<td>15 or 5</td>
</tr>
<tr>
<td><strong>Finland</strong></td>
<td>15 or 10</td>
</tr>
<tr>
<td><strong>France</strong></td>
<td>15 or 0</td>
</tr>
<tr>
<td><strong>Georgia</strong></td>
<td>0 or 10</td>
</tr>
<tr>
<td><strong>Germany</strong></td>
<td>15 or 10</td>
</tr>
<tr>
<td><strong>Greece</strong></td>
<td>10 or 5</td>
</tr>
<tr>
<td><strong>Hungary</strong></td>
<td>15 or 5</td>
</tr>
<tr>
<td><strong>Iceland</strong></td>
<td>15 or 5</td>
</tr>
<tr>
<td><strong>India</strong></td>
<td>15</td>
</tr>
<tr>
<td><strong>Indonesia</strong></td>
<td>15 or 10</td>
</tr>
<tr>
<td><strong>Iran</strong></td>
<td>10 or 5</td>
</tr>
<tr>
<td><strong>Ireland</strong></td>
<td>15 or 5</td>
</tr>
<tr>
<td><strong>Israel</strong></td>
<td>10</td>
</tr>
<tr>
<td><strong>Italy</strong></td>
<td>15</td>
</tr>
<tr>
<td><strong>Kazakhstan</strong></td>
<td>5 or 15</td>
</tr>
<tr>
<td><strong>Kuwait</strong></td>
<td>5 or 0</td>
</tr>
<tr>
<td><strong>Jamaica</strong></td>
<td>10 or 5</td>
</tr>
<tr>
<td><strong>Japan</strong></td>
<td>15 or 10</td>
</tr>
<tr>
<td><strong>Korea</strong></td>
<td>10 or 15</td>
</tr>
<tr>
<td><strong>Latvia</strong></td>
<td>10 or 5</td>
</tr>
<tr>
<td><strong>Lithuania</strong></td>
<td>15 or 5</td>
</tr>
<tr>
<td><strong>Luxembourg</strong></td>
<td>15 or 10</td>
</tr>
<tr>
<td><strong>Macedonia</strong></td>
<td>15 or 5</td>
</tr>
<tr>
<td><strong>Malaysia</strong></td>
<td>5/0</td>
</tr>
<tr>
<td><strong>Malta</strong></td>
<td>5 or 0</td>
</tr>
<tr>
<td><strong>Mexico</strong></td>
<td>15 or 5</td>
</tr>
<tr>
<td><strong>Moldova</strong></td>
<td>0, 5 or 10</td>
</tr>
<tr>
<td><strong>Morocco</strong></td>
<td>15 or 10</td>
</tr>
<tr>
<td><strong>Netherlands</strong></td>
<td>15, 10 or 5</td>
</tr>
<tr>
<td><strong>New Zealand</strong></td>
<td>15</td>
</tr>
<tr>
<td><strong>Norway</strong></td>
<td>15 or 10</td>
</tr>
<tr>
<td><strong>Pakistan</strong></td>
<td>5, 7.5 or 10</td>
</tr>
</tbody>
</table>
### Treaty Tax Rates

<table>
<thead>
<tr>
<th>Recipient Company’s Country of Residence</th>
<th>Type of Income</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Dividends (%)</td>
</tr>
<tr>
<td>Panama</td>
<td>0, 5 or 10</td>
</tr>
<tr>
<td>Philippines</td>
<td>15 or 10</td>
</tr>
<tr>
<td>Poland</td>
<td>15 or 5</td>
</tr>
<tr>
<td>Portugal</td>
<td>15 or 10</td>
</tr>
<tr>
<td>Romania</td>
<td>15 or 10</td>
</tr>
<tr>
<td>Russia</td>
<td>15 or 10 or 5</td>
</tr>
<tr>
<td>Saudi Arabia</td>
<td>5/0</td>
</tr>
<tr>
<td>Senegal</td>
<td>10</td>
</tr>
<tr>
<td>Serbia</td>
<td>10 or 5</td>
</tr>
<tr>
<td>Singapore</td>
<td>0 or 5</td>
</tr>
<tr>
<td>Slovakia</td>
<td>15 or 5</td>
</tr>
<tr>
<td>Slovenia</td>
<td>15 or 5</td>
</tr>
<tr>
<td>South Africa</td>
<td>15 or 5</td>
</tr>
<tr>
<td>Sweden</td>
<td>15 or 10</td>
</tr>
<tr>
<td>Switzerland 25</td>
<td>15 or 0</td>
</tr>
<tr>
<td>Thailand</td>
<td>10</td>
</tr>
<tr>
<td>Trinidad and Tobago</td>
<td>0, 5 or 10</td>
</tr>
<tr>
<td>Tunisia</td>
<td>15 or 5</td>
</tr>
<tr>
<td>Turkey</td>
<td>15 or 5</td>
</tr>
<tr>
<td>United Arab Emirates</td>
<td>15, 5 or 0</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>15, 10 or 0</td>
</tr>
<tr>
<td>United States 26</td>
<td>15 or 10</td>
</tr>
<tr>
<td>Uruguay</td>
<td>5 or 0</td>
</tr>
<tr>
<td>Venezuela</td>
<td>10 or 0</td>
</tr>
<tr>
<td>Vietnam</td>
<td>15, 10 6 7</td>
</tr>
<tr>
<td>Former Soviet Union</td>
<td>18</td>
</tr>
</tbody>
</table>

25 The new Protocol amending the Spain-Switzerland tax treaty has been signed and establishes the following rates:  
- Dividends: 15 or 0  
- Interest: 0  
- Royalties: 0  

26 The new Protocol amending the Spain-US tax treaty has been signed and establishes the following rates:  
- Dividends: 0, 5 or 15  
- Interest: 0 or 10  
- Royalties: 0
EXHIBIT III
CALCULATION OF CORPORATE INCOME TAX

A Limited Liability Company tax resident in Spain (Teleco, S. L.) is engaged in the supply of telecommunications services. According to the 2015 financial statements, the company obtained a profit per books of €7,225,000. The company has recorded in its accounts the following transactions which may give rise to the need to make the relevant tax adjustments to the income per books:

- Teleco, S. L. has its offices in a rented building, and pays to the owner of that building an annual amount in respect of €200,000. In addition, the company owns a building, which has been rented to a third party. The rental income obtained by Teleco, S. L. amounted to €100,000, and the withholding taxes borne by it amounted to €20,000.

- The company has recorded a corporate income tax expense amounting to €2,167,500.

- The company recorded a provision for impairment losses in relation to foreseeable bad debts amounting to €170,000. Of that amount, €125,000 relate to accounts receivable less than six months past-due on the date on which the corporate income tax relating to that year fell due.

- Teleco, S. L. purchased certain software on July 1 of the previous year, for €600,000. This tax period it recorded an amortization expense for that software amounting to €300,000.

- In the previous tax period the company recorded a provision for impairment losses in relation to foreseeable bad debts amounting to €350,000, relating to accounts receivable two months past-due at the date on which the corporate income tax relating to that year accrued.

- The company recorded a provision for other expenses (provision for incentives to be paid after 3 years) in the amount of €225,000 to cover the expense to be incurred in relation to the bonus payable to employees.

- In 2013 and 2014, it made adjustments in relation to the limit on the deductibility of amortization, for the amount of €20,000.

- The company purchased some computers on October 1, 2011 amounting to €60,000. In this tax period it recorded a depreciation expenses totaling €20,000 in relation to those computers.

- The company incurred expenses on scientific R&D in the amount of €620,000 during the year. The average expenses incurred in the previous two years amounted to €120,000.

- The company purchased shares in certain companies. In this connection, the company obtained dividends in a gross amount of €105,000, and bore withholding taxes in the amount of €21,000. Such shares were acquired by February 15 and transferred by the end of March.

- According to the information furnished by the company, tax installment payments were made during the tax period in the amount of €2,400,000.
### Exhibit III. Calculation of corporate income tax

#### Table 14

#### 2015 CORPORATE INCOME TAX CALCULATION

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income for the year</td>
<td>7,225,000</td>
</tr>
<tr>
<td><strong>Positive adjustments</strong></td>
<td></td>
</tr>
<tr>
<td>Corporate income tax expense 2015</td>
<td>2,167,500</td>
</tr>
<tr>
<td>Provision for impairment losses on receivables</td>
<td>125,000</td>
</tr>
<tr>
<td>Excess amortization of software</td>
<td>102,000</td>
</tr>
<tr>
<td>Excess depreciation of computers</td>
<td>5,000</td>
</tr>
<tr>
<td>Provision for incentives</td>
<td>225,000</td>
</tr>
<tr>
<td><strong>Negative adjustments</strong></td>
<td></td>
</tr>
<tr>
<td>Provision for impairment losses on receivables recorded in the previous tax year</td>
<td>&lt;350,000&gt;</td>
</tr>
<tr>
<td>Reversal of 30% adjustment to amortization/depreciation</td>
<td>&lt;2,000&gt;</td>
</tr>
<tr>
<td><strong>Tax base</strong></td>
<td>9,497,500</td>
</tr>
<tr>
<td><strong>Gross tax payable</strong></td>
<td>2,659,300</td>
</tr>
<tr>
<td><strong>Tax credits</strong></td>
<td></td>
</tr>
<tr>
<td>Expenses in scientific R&amp;D</td>
<td>&lt;240,000&gt;</td>
</tr>
<tr>
<td>Deduction of reversal of adjustment to amort/depr.</td>
<td>&lt;40&gt;</td>
</tr>
<tr>
<td><strong>Net tax payable</strong></td>
<td>2,419,260</td>
</tr>
<tr>
<td><strong>Withholdings and prepayments</strong></td>
<td></td>
</tr>
<tr>
<td>Withholding on dividends</td>
<td>&lt;21,000&gt;</td>
</tr>
<tr>
<td>Withholding on rental income</td>
<td>&lt;20,000&gt;</td>
</tr>
<tr>
<td>Tax installments payments</td>
<td>&lt;2,400,000&gt;</td>
</tr>
<tr>
<td><strong>Net amount refundable</strong></td>
<td>21,740</td>
</tr>
</tbody>
</table>

#### Notes:

27. As stated previously, the corporate income tax expense is nondeductible.
28. As this amount is less than 6 months old on the date when the tax falls due, it is deemed a nondeductible expense.
29. The maximum depreciation of software is €198,000 per year (33% of the acquisition cost). Consequently, as the depreciation for accounting purposes is higher than for tax purposes, a positive adjustment must be made for the difference (€102,000).
30. The maximum depreciation of data processing equipment is €15,000 per year (25% of the acquisition cost). Consequently, as the depreciation for accounting purposes is higher than for tax purposes, a positive adjustment must be made for the difference (€5,000).
31. The provision for long-term incentives for personnel who will presumably leave the company is a nondeductible expense.
32. This expense becomes deductible once it is more than 6 months old.
33. The tax provision permits reversing the adjustments made in fiscal years 2013 and 2014 due to the limitation on the deductibility of the amortization/depreciation recorded. Given that the total positive adjustment for this item amounted to €20,000, and the period for reversing it is 10 years, a negative adjustment must be made to the book income for one-tenth of the positive adjustment made in the past, that is, €2,000 (20,000 x 10%).
34. As the R&D expense of the year is higher than the average incurred in the last two years, the deduction rate applicable is 42%, the deduction totaling €240,000 (120,000 x 25% + 500,000 x 42%). It is necessary to verify that this deduction does not exceed 25% of the gross tax payable reduced by domestic and international double taxation tax credits and reductions. However, this limit goes up to 50% when the amount of the R&D tax credit, relating to expenses and investments made in the same tax period, exceeds 10% of the gross tax payable, reduced by domestic and international double taxation tax credits and reductions. In this case, the limit is €1,434,510 (the limit is 50% because the R&D expenses of the year exceed 10% of the gross tax payable), and thus the tax credit can be taken in full.
35. The new Corporate Income Tax Law has established, for taxpayers to which the 70% limit on the tax deductibility of accounting amortization/depreciation applied, the right to take an additional deduction of 2% in fiscal year 2015 (5% starting in 2016) of the amount included in the tax base (2,000 x 2%).
EXHIBIT IV: CASE OF APPLICATION OF THE REGIME FOR FOREIGN-SECURITIES HOLDING COMPANIES (“ETVE”) THE SHAREHOLDERS OF WHICH ARE NOT RESIDENT IN SPAIN

The entity, Teleco, S. A. resident in Spain, owns 50% of an entity resident in the US. In turn, Teleco, S. A. is owned by an entity resident in Argentina.

In fiscal year 2015, Teleco, S. A., has received exempt dividends from its US subsidiary. Moreover, in that year, Teleco, S. A. distributes dividends to its Argentinean shareholder in the amount of €1,500,000. The taxation in Spain of these dividends will depend on whether or not the Spanish entity has elected to apply the ETVE regime.

1. Teleco, S. A. has elected to apply the ETVE regime
   
   The dividends distributed by the ETVE to its Argentinean shareholder will not be subject to taxation in Spain, in application of the ETVE regime.

2. Teleco, S. A. has not elected to apply the ETVE regime

   The dividends distributed to the Argentinean shareholder will be subject to taxation in Spain, with the limit established in the Spain-Argentina tax treaty.

In this regard, the tax treaty establishes that the taxation of dividends cannot exceed:

a) 10% of the gross dividends if the beneficial owner is a company that directly owns 25% of the capital of the investee that pays the dividends;

b) 15% of the gross dividends in the rest of cases.

In our case, as the Argentinean entity owns 100% of Teleco, S. A., the withholding applied will be limited to 10% of the dividends, i.e., the withholdings will amount to €150,000.

Table 14

<table>
<thead>
<tr>
<th>TAXATION IN SPAIN OF THE DIVIDENDS DISTRIBUTED BY TELECO, S.A. TO ITS SHAREHOLDER RESIDENT IN ARGENTINA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teleco, S.A. is an ETVE</td>
</tr>
<tr>
<td>Teleco, S.A. is not an ETVE</td>
</tr>
</tbody>
</table>
Exhibit V. Nonresident case study: income obtained without a permanent establishment

EXHIBIT V: NONRESIDENT CASE STUDY: INCOME OBTAINED WITHOUT A PERMANENT ESTABLISHMENT

The Dutch company TPC, B. V. posted one of its employees to Spain in September 2015. This employee worked in the Netherlands until August 2010. The salary of the employee corresponding to the September-December period amounts to €12,000, and is paid by the Spanish branch. The employee continues making contributions to the Dutch Social Security System, amounting to €800 for those four months.

In addition, the employee opened a bank account in Spain and he received interest amounting to €100 and bore a withholding tax of €21 on said interest.

In 2015 he buys and sells shares of a Spanish company and obtains a capital gain of €100. On another transaction of the same type with shares in another Spanish company, he obtains a capital loss of €20. He also transfers shares of a Dutch company and obtains a capital gain of €50.

The employee will be considered as a nonresident in Spain for tax purposes in 2014, as he was not physically present in Spain for more than 183 days and his center of economic interest was not located in Spain this year.

The employee will be taxed separately on each item of income obtained and the tax will accrue when the income falls due or on the date of actual payment if it is sooner.

1. Salary income: the Spanish branch pays his salary and, therefore, it must pay each month (or every three months if its volume of operations in the previous year was less than €6,010,121) withholdings on the gross salary paid, without deducting any expenses. As a result, in this case, the branch would have to pay, in total and in the periods mentioned, to the tax authorities 24% of the gross salary paid to the employee, which amounts to €2,880.

2. Interest on the bank account: as a nonresident, the employee could claim a refund of the €21 withheld by the Bank, as the interest obtained from nonresidents’ bank accounts is exempt from tax.

3. Shares: Only the sale of Spanish shares is subject to taxation. Additionally, gains and losses cannot be offset against each other.

Therefore, the capital gain obtained from the sale of the first shares would be taxable at the rate of 21%.

However, according to the Tax Treaty between Spain and the Netherlands, that capital gain can only be taxed in the Netherlands, as the country of residence of the employee, and as a result, it will be exempt in Spain.
EXHIBIT VI: VAT CASE STUDY

a Spanish company, leader in the sale of specialized machinery, delivers measuring machines for the automotive industry to various countries, among others Spain. The recipients of these machines are taxable persons for VAT purposes, duly registered in their respective countries of residence.

In the course of its business activities, the company incurs every month in the following expenses:

- €900,000 plus VAT for the purchase of raw materials necessary for its production, being all the purchases made within the Spanish market.
- €30,000 plus VAT for the rental of its factory.
- €7,500 plus VAT for other business expenses.

The goods and services acquired are subject to Spanish VAT at the standard rate of 21% (said acquisitions have taken place in the first semester of 2015). Consequently, the input VAT for the Spanish company every month amounts to €196,875 (i.e. 937,500 x 21%).

In addition, the Spanish company sells and distributes its products in the Spanish, EU and other international markets every month of the first half of 2015 as follows:

- Spanish sales: €1,000,000 plus VAT
- EU Sales: €200,000
- International Sales: €100,000

The Spanish company must charge VAT for the supplies performed within the Spanish market at the standard rate of 21% (i.e. 1,000,000 x 21% = 210,000). However, the supply of goods to an EU Member State, or the supply of goods to other third territories (export of goods), would be exempt from VAT provided that all the regulatory requirements are met; among others, the demonstration of the transportation of products outside the Spanish VAT territory and that the recipient of the goods is a VAT trader when the goods are supplied to other EU Member State.

As the Spanish company’s turnover for the previous year exceeded the amount of €6,010,121.04, the company is considered to be a large company and therefore it is obliged to submit the returns on a monthly basis. Otherwise, the returns must be submitted quarterly.

The output VAT must be recorded in such return (i.e. €210,000). However, this amount may be offset with the input VAT borne in the prior acquisitions of goods and services derived from its business activity (i.e. €196,875).

The difference between the output VAT and input VAT will amount to €13,125, which will be the final tax to be paid to the Tax Authorities when submitting the return.
This guide was researched and written by Garrigues on behalf of ICEX-Invest in Spain.

This guide is correct to the best of our knowledge and belief at the date indicated below. It is, however, written as a general guide, so it is necessary that specific professional advice be sought before any action is taken.

Madrid, March 2015
With the aim of promoting investment, employment, competitiveness and economic growth, the Spanish State and all other public authorities have been developing a broad range of aid instruments and incentives specially targeted at boosting indefinite term employment, regional investment and research, development and technological innovation (R&D and TI).

Furthermore, since Spain is an EU Member State, potential investors are also able to access European aid programs, which provide further incentives for investing in Spain.
Guide to business in Spain

Investment aid and incentives in Spain

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3. State incentives for specific industries 18
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1. Introduction

1. INTRODUCTION

With the aim of promoting investment, employment, competitiveness and economic growth, the Spanish State and all other public authorities have been developing and consolidating an extensive and complete system of aid instruments and incentives especially targeted at boosting indefinite-term employment, regional investment and at research, development and technological innovation (R&D&I).

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

These investment aid measures can be classified as follows:

- State incentives for training and employment.
- State incentives for specific industries.
- Incentives for investments in certain regions. State incentives for SMEs.
- Preferred financing from the Official Credit Institute (Instituto de Crédito Oficial or ICO).
- Incentives for internationalization.
- EU aid.

Most of the aid that can be obtained from the various agencies depends largely on the specific characteristics of each investment project (i.e. the better the prospects of the project, the more possibilities there are of obtaining financing and aid).

Furthermore, the ICEX-Invest in Spain website (www.investinspain.org) offers a search engine for public aid and subsidies granted in Spain. Using this tool, companies can gain easy access to updated information regarding the grants available for their investment projects. Also, this same tool now includes an automatic alert system for aid and subsidies tailor-made to each user.

Notwithstanding the tax incentives discussed in other chapters (the main tax incentives analyzed in Chapter 3 are investment tax credits (for further information go to Chapter 3, section 2), the main State incentives for investors are described on the following pages.
2. State incentives for training and employment

2. STATE INCENTIVES FOR TRAINING AND EMPLOYMENT

These incentives, which form part of the Government’s employment promotion policy, can signify important savings in labor costs and are divided into two types:

2.1. Training incentives

Since the approval of Royal Decree 395/2007, regulating the Vocational Training for Employment subsystem, the Vocational Training for Employment subsystem has combined both the training aimed at employed workers (Ongoing Vocational Training) and the training aimed at unemployed workers (Occupational Training) under a single model referred to as Vocational Training for Employment.

In this context, the Vocational Training for Employment subsystem encompasses a set of instruments and actions aimed at encouraging and extending to companies and to employed and unemployed workers a type of training that meets their needs and contributes to the development of a knowledge-based economy.

The following are the initiatives making up this training subsystem:

1. Demand-based training: training initiatives fostered by companies and individual leaves of absence for training, financed in whole or in part with public funds, to meet the specific training needs raised by companies and their workers.

2. Supply-based training: comprising both training initiatives aimed primarily at employed workers and training initiatives aimed primarily at unemployed workers with a view to offering them training which capacitates them for qualified work and access to jobs.

3. Training alternating with work: training initiatives under vocational training contracts and public training/work programs, enabling the worker to combine training with professional practice on the job.

4. Programs to support and accompany training: aimed at improving the efficiency of the Vocational Training for Employment subsystem.

The most notable initiatives, for the purposes of interest here, are demand-based training and programs to support and accompany training.

Thus, demand-based training is regulated by Order TAS/2307/2007, partially implementing Royal Decree 395/2007, regulating the vocational training subsystem for employment in connection with demand-based training.

The demand-based training system is implemented through the grant of an annual credit to companies—consisting of a percentage of reductions in their workers’ social security contributions —which must be earmarked for training activities for their workers.
2. State incentives for training and employment

The amount of the reductions is set annually in the General State Budgets, according to the size of the company and the scope of the training carried out in the preceding year.

Specifically, the aforesaid credit is subdivided into two types, according to the type of training program:

Table 1
REDUCTIONS IN EMPLOYER SOCIAL SECURITY

<table>
<thead>
<tr>
<th>Features of the aid</th>
<th>Amount (Additional Provision 89 LGPE 2015)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Own training programs.</td>
<td>The result of applying the following percentages, according to number of workers, to the amount paid in the preceding year as employer contributions to vocational training: 100% (between 6 and 9), 75% (between 10 and 49), 60% (between 50 and 249) and 50% (more than 250). For companies with between 1 and 5 workers and for newly formed companies or companies opening new workplaces with new workers, reductions of €420 are established for the first case and of €65 for the second.</td>
</tr>
<tr>
<td>Individual leaves of absence for workers.</td>
<td>Equal to the salary costs of the leaves of absence granted, with certain limits established by Ministerial Order, according to size of company. As an example, during 2014 the limits were between the amount equal to the costs of 200 hours, for companies with between 1 and 9 workers, and the amount equal to the costs of 800 hours, for companies with between 250 and 499 workers. During 2015, total credits granted under this section may not exceed 5% of the Public State Employment Service budget.</td>
</tr>
</tbody>
</table>

On the other hand, the programs to support and accompany training are regulated in Order TIN/2805/2008, implementing Royal Decree 395/2007 on programs to support and accompany training, stipulating the terms regulating the grant of the public subsidies to be used to finance them.

These subsidies are aimed at contributing to the improvement of the vocational training for employment subsystem, boosting the quality of the training of employed and unemployed workers at industry or inter-industry level, as well as at disseminating and promoting the subsystem as a whole.
2. State incentives for training and employment

The procedure for granting these subsidies is initiated ex officio in a public call for applications issued by the Director-General of the National Employment Service or the respective Autonomous Community body with jurisdiction on the matter.

These subsidies are targeted at the financing of four types of program:

<table>
<thead>
<tr>
<th>Program</th>
<th>Purpose</th>
<th>Beneficiaries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prospecting and analysis.</td>
<td>To obtain a more detailed knowledge of the factors making up training demands, and analysis of specific training problems and needs in the various economic industries.</td>
<td>Companies with workplaces in national territory, which include among their corporate purposes the pursuit of activities relating to occupational training for employment.</td>
</tr>
<tr>
<td>Preparation and experimentation.</td>
<td>To furnish companies and agents active in the management of worker training with tools enabling them to improve their organization.</td>
<td></td>
</tr>
<tr>
<td>Evaluation.</td>
<td>To evaluate training in the various economic industries and to develop evaluation methodologies with a view to improving training quality.</td>
<td></td>
</tr>
<tr>
<td>Promotion and dissemination.</td>
<td>To create knowledge networks using virtual workplaces, documentary consultation bases, publications, etc. which favor the dissemination of initiatives and products of all the agents active in Vocational Training for Employment.</td>
<td></td>
</tr>
</tbody>
</table>

Notwithstanding the foregoing, it is important to note the approval of Royal Decree Law 4/2015, of March 22, 2015, on the urgent reform of the vocational training for employment system in the area of labor, published in the Official State Gazette of March 23, 2015. The Royal Decree modifies the system in force in this connection under the following main objectives: (i) to guarantee that workers, employees and unemployed persons can exercise their right to training, (ii) to make an effective contribution through training to the competitiveness of enterprises, (iii) to strengthen the role played by collective bargaining in the matter and (iv) to offer efficiency and transparency in the management of public resources.
2. State incentives for training and employment

The newly introduced features include most notably:

- Economic modules for training: economic module means the cost per participant and hour of training. The amount of these modules will comprise both direct and indirect costs of the training activity, and the costs relating to organization in programmed training can be financed up to 10% in companies of more than 9 employees, 15% in companies of between 6 and 9 employees and up to 20% in companies with 5 or fewer employees.

- Programmed training by companies: with this Royal Decree Law, training initiatives seek to respond to the real, immediate and specific training needs of companies and their employees, and can be carried out by the company itself or entrusted to an external entity accredited and/or registered in the appropriate register.

For such purpose, companies may avail themselves of credit for the financing of training costs, which can take the form of reductions in employer social security contributions according to the annual projections in the General State Budgets Law. Companies can also participate in the financing of their employees’ training with their own resources, according to the following percentages: 5% (1 to 9 employees), 10% (10 to 49 employees), 20% (50 to 249 employees, or 40% (250 or more employees).

In any case, until the vocational training for employment initiatives are implemented by regulation, those in force under Royal Decree 395/2007, already mentioned, will remain in force, except in connection with a few specific matters.

2.2. Employment incentives

The Spanish Central Government offers an extensive catalog of aid, consisting mainly of reductions in social security contributions, aimed at promoting new stable or indefinite jobs (especially for unemployed persons included in groups such as women in general, young people aged 16-30, the long-term unemployed, unemployed persons over the age of 45 and persons with disabilities).

Furthermore, on an exceptional basis, certain reductions in social security contributions are instrumented for temporary contracts executed with workers with disabilities or with socially-excluded individuals, provided that in both cases they are unemployed and registered as job seekers at the Employment Office, as well as with persons who provide evidence of having been a victim of gender-based violence.

Where the indefinite-term or temporary contract is part-time, the incentive will be the result of applying to the incentives stipulated for each case, a percentage equal to the percentage of the working day stipulated in the contract, increased by 30%, the result of which may in no case exceed 100% of the stipulated incentive, except in connection with incentives for hiring persons with disabilities through special employment centers.

The catalog of aid, the basic parameters of which were just described above, is very extensive, as it varies according to the ample number of existing contracts and the specific features of each of them. Most of these incentives are set forth in Law 43/2006, on improved growth and employment,
2. State incentives for training and employment

as well as in Law 3/2012, on urgent measures to reform the job market, which, among other objectives, is aimed at rationalizing the system of incentives for hiring under indefinite-term contracts, with a view to correcting some of the inefficiencies detected, in practice, in recent years.

More information on the aid and reductions envisaged for each type of contract may be found at the website of the State Public Employment Service (www.sepe.es).

In any case, the following is a summary of the main aid set forth in the aforesaid legislation, indicating the stipulated incentive percentages.

1. Incentives for hiring under indefinite-term contracts to support entrepreneurs (article 4 of Law 3/2012).

Table 3

<table>
<thead>
<tr>
<th>Groups</th>
<th>Description</th>
<th>Annual amount (€)</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Men</td>
<td>Women in occupations in which women are less represented.</td>
<td></td>
</tr>
<tr>
<td>Unemployed persons registered as job seekers at the Unemployment Office.</td>
<td>Young people aged 16-30*.</td>
<td>Year 1: 1,000</td>
<td>3 years.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Year 2: 1,100</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Year 3: 1,200</td>
<td></td>
</tr>
<tr>
<td>Persons over 45.</td>
<td>Men</td>
<td>Women in occupations in which women are less represented.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Year 1: 1,100</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Year 2: 1,200</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Year 3: 1,300</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>1,300</td>
<td></td>
</tr>
</tbody>
</table>

* Companies hiring their first worker aged under 30 using this contractual form may take a €3,000 tax credit for corporate income tax purposes. Companies with fewer than 50 workers which hire unemployed persons who collect unemployment benefits using this contractual form may take a tax credit for corporate income tax purposes equal to 50% of either the benefits still to be collected or of 12 months of the acknowledged benefit.
2. State incentives for training and employment


<table>
<thead>
<tr>
<th>Groups</th>
<th>Description</th>
<th>Annual amount (€)</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beneficiaries of the National Youth Guarantee System</td>
<td>Young persons under the age of 25, or under the age of 30 in the case of disabled persons.</td>
<td>Full time. 1,800</td>
<td>Part time. 1,350 in the case of working hours at 75% or 900 in the case of working hours at 50%.</td>
</tr>
</tbody>
</table>

The reduction will apply to all hires made after the entry into force of Royal Decree-Law 8/2014, of July 4, 2014, that is, October 17 2014 and up to June 30, 2016.
### Table 5
**OTHER INCENTIVES FOR HIRING UNDER INDEFINITE-TERM CONTRACTS**

<table>
<thead>
<tr>
<th>Groups</th>
<th>Description</th>
<th>Annual Amount (€)</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Special situations.</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Socially-excluded workers (art. 2.5 Law 43/2006).</td>
<td>600</td>
<td>4 years.</td>
</tr>
<tr>
<td></td>
<td>Victims of domestic violence (Article. 2.4 Law 43/2006)*.</td>
<td>850</td>
<td>4 years.</td>
</tr>
<tr>
<td></td>
<td>Victims of gender-based violence (Final Provision 1 of Royal Decree 1917/2008).</td>
<td>1,500</td>
<td>4 years.</td>
</tr>
<tr>
<td></td>
<td>Victims of terrorism (art. 2.4 bis Law 43/2006).</td>
<td>1,500</td>
<td></td>
</tr>
<tr>
<td><strong>Persons with disabilities.</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>In general (art. 2.2.1 Law 43/2006).</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Men &lt; 45 years</td>
<td>4,500</td>
<td>5,350</td>
</tr>
<tr>
<td></td>
<td>Women &lt; 45 years</td>
<td></td>
<td>6,300</td>
</tr>
<tr>
<td></td>
<td>Men and women aged over 45</td>
<td></td>
<td>5,700</td>
</tr>
<tr>
<td></td>
<td>Throughout the term of the contract.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>In case of severe disability (art. 2.2.2 Ley 43/2006).</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Men</td>
<td>5,100</td>
<td>5,950</td>
</tr>
<tr>
<td></td>
<td>Women</td>
<td></td>
<td>6,300</td>
</tr>
<tr>
<td><strong>Conversion to indefinite.</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Conversions of work-experience, handover and replacement due to retirement contracts into indefinite-term contracts (art. 7 Law 3/2012) **.</td>
<td>500</td>
<td>700</td>
</tr>
<tr>
<td></td>
<td>Conversion of vocational training and apprenticeship contracts into indefinite-term contracts (Article 3.2 Law 3/2012) **.</td>
<td>1,500</td>
<td>1,800</td>
</tr>
</tbody>
</table>

* Victims of gender-based and domestic violence do not have to meet the requirement of being unemployed and registered as job seekers at the Employment Office.

** Potential beneficiaries of these reductions are employers with fewer than 50 employees at the time of hiring, including independent professionals and worker-owned enterprises or cooperatives joined by employees as working or business partners, provided that the latter have chosen a social security scheme for employees. In the case of workers hired under work-experience contracts and made available to user companies, they will be entitled, on the same terms, to identical reductions where, without a break in continuity, they arrange an indefinite-term employment contract with those workers.

*** Regardless of the date of execution.
### 2. State incentives for training and employment

#### 4. Incentives for hiring under temporary contracts.

<table>
<thead>
<tr>
<th>Groups</th>
<th>Description</th>
<th>Men &lt; 45 years</th>
<th>Men &gt; 45 years</th>
<th>Women &lt; 45 years</th>
<th>Women &gt; 45 years</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Persons with disabilities hired under temporary contracts to foster employment (art. 2.2.4 Law 43/2006).</td>
<td>In general.</td>
<td>3,500</td>
<td>4,100</td>
<td>4,100</td>
<td>4,700</td>
<td>Throughout the term of the contract.</td>
</tr>
<tr>
<td></td>
<td>Severe disability.</td>
<td>4,100</td>
<td>4,700</td>
<td>4,700</td>
<td>5,300</td>
<td></td>
</tr>
<tr>
<td>Socially-excluded persons (art. 2.5 Law 43/2006).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>500</td>
<td></td>
</tr>
<tr>
<td>Victims of gender-based or domestic violence (art. 2.4 Law 43/2006).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>600</td>
<td></td>
</tr>
<tr>
<td>Victims of terrorism (art. 2.4 bis Law 43/2006).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>600</td>
<td></td>
</tr>
</tbody>
</table>

#### 5. Incentives for hiring under indefinite-term contracts, under temporary contracts or for conversion into indefinite-term contracts through special employment centers.

<table>
<thead>
<tr>
<th>Groups</th>
<th>Annual amount</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unemployed persons with disabilities hired under temporary or indefinite-term contracts through special employment centers (Article 2.3 Law 43/2006).</td>
<td>100% of the employer’s social security contributions, including contributions for occupational accidents and sickness and joint collection contributions.</td>
<td>Throughout the term of the contract.</td>
</tr>
</tbody>
</table>
2. State incentives for training and employment


Table 8
INCENTIVES FOR TRAINING AND APPRENTICESHIP CONTRACTS (ART. 3 OF LAW 3/2012)

<table>
<thead>
<tr>
<th>Groups</th>
<th>Description</th>
<th>Annual amount</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unemployed persons registered as job seekers with the Employment Office.</td>
<td>For contracts executed after July 8, 2012. Regardless of the date on which they are executed.</td>
<td>Reduction in employer’s contribution to social security for common contingencies, including those relating to occupational accidents and illnesses, unemployment, wage guarantee fund and vocational training, equal to 100% in the case of employers with fewer than 250 employees; and 75% in the case of employers with 250 or more employees (Article 3.1 Law 3/2012). Reduction in employer’s social security contribution of €1,500 per year (€1,800 in the case of women) where training and apprenticeship contracts which have terminated are converted into indefinite-term contracts (Article 3.2 Law 3/2012).</td>
<td>Throughout the term of the contract, including renewals.</td>
</tr>
</tbody>
</table>

The above does not preclude the reductions provided for in Order ESS/2518/2013 of December 26, 2013, regulating the training aspects of the contract for training and apprenticeship, whereby enterprises may finance the cost of training inherent in this type of contract through reductions in employer social security contributions. The maximum amount of these reductions will be the result of multiplying the economic module in question (face-to-face training: €8/hour; and distance training: €5/hour) by the number of hours equal to 25% of the working hours during the first year, and 15% of the working hours the second and third years.

It should be noted that the above-mentioned Law 18/2014 on urgent measures for growth, competitiveness and efficiency has entailed the modification of the above-mentioned Order ESS/2581/2013 on the training aspects of the contract for training and apprenticeship, increasing the maximum amounts of the reductions in employer social security contributions for cases where beneficiaries of the Youth Guarantee System are hired. In these cases, Order ESS/41/2015, of January 12, 2015, establishes that the above-mentioned multiple of 25%/15% will be increased to 50% of the working hours during the first year, and 25% of the working hours the second and third years.
2. State incentives for training and employment

7. Incentives for the contracts provided for in Law 11/2013, of July 26, 2013, on measures to support entrepreneurs and to boost growth and create jobs.

Table 9

<table>
<thead>
<tr>
<th>Type</th>
<th>Description/Groups</th>
<th>Annual amount</th>
<th>Duration*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Training relationship (Article 9).</td>
<td>Indefinite or temporary part-time hiring of young unemployed persons under the age of 30, without employment experience and originating from other sectors of activity, combining employment and training** or having pursued such training in the 6 months preceding the execution of the contract.</td>
<td>100% reduction to employer social security contributions for common contingencies in the case of companies with fewer than 250 employees; and 75% in the case of companies with 250 employees or more.</td>
<td>Maximum 12-month term, renewable for another 12 months provided that the worker continues to combine training and employment or has pursued the training in the 6 months prior the deadline for the 12 months preceding.</td>
</tr>
<tr>
<td>Microenterprises and self-employed workers*** (Article 10).</td>
<td>Hiring on a permanent, full- or part-time basis, of young unemployed persons under the age of 30 and registered at the employment office.</td>
<td>100% reduction to employer social security contributions for common contingencies.</td>
<td>During the first year of the contract.</td>
</tr>
<tr>
<td>New young entrepreneurial projects (Article 11).</td>
<td>First hiring on a permanent basis (full or part time) on the part of independent contractors under the age of 30 and without salaried workers, of unemployed persons aged 45 or more registered uninterruptedly at the unemployment office, for 12 months in the 18 months preceding the hiring or who are beneficiaries of the occupational retraining program for persons who have used up their unemployment protection.</td>
<td>100% reduction to employer social security contributions.</td>
<td>Maximum 12-month term after the hiring.</td>
</tr>
</tbody>
</table>

* In accordance with the First Transitional Provision of the above mentioned Law 11/2013, the incentives set out in articles 9 to 13 will remain in force until the unemployment rate fall below the 15% mark, as it is determined by the Ministry of Employment and Social Security.

** Officially certified training or training promoted by the Public Employment or Training Services in languages or IT and communication of a minimum annual duration of 90 hours.

*** Excluding indefinite contracts executed pursuant to Article 4 of Law 3/2012 (indefinite-term contracts in support of entrepreneurs) and the indefinite contracts included under Article 2 of Law 43/2006 (e.g., groups in special situations or with a disability) and permanent contracts for intermittent work, in accordance with article 15.8 of the Workers’ Statute.
## 2. State incentives for training and employment

### Table 9 (cont.)

**INCENTIVES FOR THE CONTRACTS PROVIDED FOR IN LAW 11/2013**

<table>
<thead>
<tr>
<th>Type</th>
<th>Description/Groups</th>
<th>Annual amount</th>
<th>Duration*</th>
</tr>
</thead>
<tbody>
<tr>
<td>First young persons’ employment (Article 12).</td>
<td>Temporary hiring (up to a maximum of 6 months, save for another maximum term per the collective bargaining agreement) of young unemployed persons under the age of 30 without employment experience or less than 3 months of experience and subsequent conversion into an indefinite-term contract.</td>
<td>Reduction in employer social security contributions of €500 a year and €700 a year in the case of women.</td>
<td>During 3 years.</td>
</tr>
<tr>
<td>Work experience for first employment (Article 13).</td>
<td>Work experience contracts for young persons under the age of 30, even where 5 or more years have elapsed since completion of their studies.</td>
<td>Reduction to employer social security contributions of 50% or 75% where performing unpaid work experience at the company, with an additional reduction of 50% or 25%, respectively, for beneficiaries of the National Youth Guarantee System.</td>
<td>Throughout the term of the contract. In the case of beneficiaries of the National Youth Guarantee System, the additional reduction will apply until June 30, 2016.</td>
</tr>
<tr>
<td>Social economy institutions (Article 14).</td>
<td>Incorporation as working partners of unemployed persons under the age of 30 by cooperative or employee-run companies.</td>
<td>Reduction in employer social security contributions of €800 a year.</td>
<td>During 3 years.</td>
</tr>
<tr>
<td></td>
<td>Hiring of person under the age of 30 subject to social exclusion by youth employment outreach companies.</td>
<td>Reduction in employer social security contributions of €1,650 a year.</td>
<td>Throughout the term of the contract or during 3 years where the contract in indefinite-term in nature.</td>
</tr>
</tbody>
</table>

* In accordance with the First Transitional Provision of the above mentioned Law 11/2013, the incentives set out in articles 9 to 13 will remain in force until the unemployment rate fall below the 15% mark, as it is determined by the Ministry of Employment and Social Security.
2. State incentives for training and employment

8. Incentives for indefinite-term employment and for independent professionals under Royal Decree Law 1/2015.

Lastly, Royal Decree-Law 1/2015, of February 27, 2015, on the second chance mechanism, the reduction of financial burden and other social security measures, introduced the possibility of reducing the employer social security contribution, in any of its forms, in cases of indefinite-term hiring, provided that the conditions and requirements stipulated in the Royal Decree-Law are fulfilled.

The amount of the incentive can be up to €500, over 24 months, in cases of full-time hiring, and is reduced proportionally, according to the percentage of reduction in working time under each contract.

After the 24 months have elapsed, and during the following 12 months, companies with fewer than 10 employees at the time they execute the contract qualifying for this contribution relief, will be entitled to maintain the incentive, although only up to the first €250 of the contribution base, or the relevant amount reduced proportionally, in cases of part-time hiring.

It is also important to note that in the case of employees registered under the National Youth Guarantee System, this contribution relief will consist of a reduction, provided that the requirements stipulated under article 105 of Law 18/2014 (mainly referring to evidence of not having worked or received education or training previously, during a specific period of time) are met.

9. Incentives for maintaining jobs of workers with permanent contracts for seasonal work in the tourism, tourism-related and hotel & restaurant sectors.

Under Additional Provision no. 87 of Law 36/2014, of December 26, 2014, on the General State Budget for 2015, private companies engaging in activities that are classed in the tourism, tourist-related and hotel & restaurant sectors that generate productive activity between the months of March and November each year and which employ and/or maintain over this period workers on permanent contracts for seasonal work, may, up to December 31, 2015, apply a discount in those months of 50% of the employer social security contributions for nonoccupational contingencies and for items collected jointly with social security contributions (unemployment benefit, wage guarantee fund and vocational training) in respect of such workers.

10. Exemption from employer social security contributions in cases of suspension of contracts or short-time working due to force majeure.

Royal Decree-Law 16/2014, of December 19, 2014, approving the Employment Activation Program, provides for an exemption of up to 100% of employer social security contributions for companies which, following a decision by the labor authority, decide to suspend employment contracts or impose short-time working due to force majeure resulting from natural catastrophes that led to the total or partial destruction of the company’s installations, preventing the workers
2. State incentives for training and employment

Concerned from continuing their work. The above applies where, among other requirements, the jobs of the workers concerned are guaranteed for one year after the end of the suspension or short-time working period. The exemption will apply to applications submitted from November 21, 2014 onwards and will last for a period of 12 months. It may be extended for an equal period where it is evidenced that the requirements justifying the initial grant of the exemption continue to be met.

2.3. Local employment initiatives (no time limit)

In addition to the incentives to foster employment and to labor adjustments, aid and subsidies may also be granted for investment projects aimed at generating economic activity and stable employment in local and regional areas of Spain, subject to classification by the State Employment Public Service as investment and employment (I+E) projects or entities.


For a project to be classed as “I+E”, it must meet the following requirements:

- A local Corporation must support the business project by contributing economic and/or material resources, such as infrastructures or services assisting it in the start-up and management of the business.

- Projects must provide for the hiring of workers or the recruitment of new partners in the case of projects involving cooperatives or labor companies.

- Projects must provide for the incorporation of a new company with a maximum number of 25 employees at the time of incorporation.

- Projects must relate to a newly formed enterprise.

- Projects must provide for the production of products and/or services which relate to emerging economic activities or, in the case of traditional activities in the area, which cover needs not covered by the existing structure.

- Projects must meet technical, economic and financial viability requirements.

Incentives available for projects deemed eligible are as follows:

- A financial subsidy aimed at the reduction by up to three percentage points of interest rates on loans granted to the company in connection with its incorporation and establishment. The maximum amount of this subsidy will be €5,108 per indefinite-term job created.
2. State incentives for training and employment

- A subsidy for the support of management activities (e.g. subsidies for the external contracting of market or technical research, reports, and/or training programs). This subsidy will only be available during the first year after the incorporation of the company and will cover 75% of the cost of the qualifying services up to a maximum of €12,020.

- A subsidy for technical assistance for the hiring of highly-qualified technical experts, covering 50% of total labor costs (including employer social security contributions for a maximum period of one year). This is a one-time subsidy with a ceiling of €18,030.

- A subsidy for each indefinite-term employment contract, amounting to €4,808 for each new worker hired under an indefinite-term full-time contract (or the related proportion of such overall amount in the case of indefinite-term part-time contracts).

- A subsidy for cooperatives and labor companies amounting to €4,808 per unemployed working partner recruited on an indefinite-term basis. This subsidy is not compatible with those described in the two preceding points.

All the aforementioned subsidies may be increased by 10% where the main activity is related to certain areas, such as the protection and maintenance of natural areas, new information and communication technologies, waste management, mass transportation, the development of local culture and the care of children, the handicapped and the aged.

Applications for these incentives must be submitted to the respective Provincial Directorate of the Employment Public Service or the appropriate Autonomous Community body, which are the bodies in charge of the management of this aid, selecting projects and granting the related aid.

This aid and these subsidies are compatible with others granted by other government agencies or public or private entities, although the total amount of the subsidy, whether taken alone or together with aid or subsidies granted by other public authorities, private or public entities, may not exceed 80% of the cost of the subsidized activity.
3. State incentives for specific industries

3. STATE INCENTIVES FOR SPECIFIC INDUSTRIES

The Central Government provides financial aid and tax benefits for activities pursued in certain industries which are considered to be priority industries (e.g., mining, technological development, research and development, etc.) in view of their potential for growth and their impact on the nation’s overall economy. Additionally, Autonomous Community governments provide similar incentives for most of these industries.

Financial aid includes both nonrefundable subsidies and interest relief on loans obtained by beneficiaries, or combinations of the two.

The main official programs supporting the industrial development projects to support innovation currently in force are:

3.1. Research, development and technological innovation

1. 2013-2020 Spanish Strategy for Science and Technology and for Innovation

Encouraging innovation, technological improvement and research and development projects continues to be one of the priority objectives of the Spanish public authorities, since this is doubtless a determining factor of the increase in a country’s competitiveness and economic and social development.

Currently Science, Technology and Innovation Law 14/2011, of June 1, 2011, establishes the legal framework for the fostering of scientific and technical research, experimental development and innovation in Spain, founded on a scheme based on the approval of the related Spanish Strategies for Science, Technology and for Innovation, which serve as multi-year reference documents for reaching the statutory objectives and as a basis for the preparation of a State Plan through which to instrument in detail the initiatives required to perform such objectives.

In line with the foregoing, at the beginning of 2013 the Council of Ministers approved, in a combined document, “the Spanish Strategy for Science and Technology and for Innovation” for the 2013-2020 period, whose essential purpose is to promote the scientific, technological and business leadership of the country as a whole and to increase the innovation capacities of the Spanish company and the Spanish economy, defining in this connection the following general objectives:

a) Recognizing and promoting R&D and TI talent and its employability, with a view to improving the System’s R&D and TI training capacities, boosting labor market integration and employability of the trained human resources, both in the public and in the business sectors, and facilitating their mobility among public institutions and between such institutions and the private sector for the pursuit of R&D and TI activities.

b) Fostering excellence in scientific and technical research; promoting the creation of knowledge, increasing the scientific leadership of the country and its institutions and fostering
3. State incentives for specific industries

the creation of new opportunities which lead to the future development of highly competitive technological and business capacities.

c) Boosting business leadership in R&D and TI, increasing the competitiveness of the productive fabric by increasing R&D and TI activities in all areas and, in particular, in those industries deemed to be strategic for growth and job creation in the economies of Spain and its Autonomous Communities.

d) Fostering R&D and TI activities aimed at meeting the global challenges currently facing Spanish society.

In order to attain the foregoing objectives, and having regard to the characteristics of the environment in which the agents of the Spanish System for Science, Technology and Innovation are to pursue their activities, six priority areas of transversal action were identified: (i) defining a favorable environment which enables the pursuit of R&D and TI activities; (ii) specializing and aggregating the creation of knowledge and talent; (iii) stimulating knowledge transfer in open and flexible environments which favor interaction and encourage its conversion into innovative applications, whether commercial or non-commercial; (iv) supporting internationalization and promoting the international leadership of the System; (v) fostering the intelligent specialization of territories with a view to promoting a highly competitive regional framework; and (vi) disseminating a scientific, innovative and enterprising culture throughout society as a whole, with a view to achieving a higher degree of social and institutional acceptance of the entrepreneur.

The structure of the Spanish Strategy for Science and Technology and for Innovations aimed at aligning Spanish policies with the R&D and TI objectives pursued by the European Union, defined in the new framework program for the financing of “Horizonte 2020” R&D and TI activities, with a view to intensifying the participation of the agents of the Spanish System for Science, Technology and Innovation in the development of the European Research Space, facilitating access to sources of financing at Community level.

In short, the 2013-2020 Spanish Strategy for Science and Technology and for Innovation, as an instrument used to foster the country’s economic growth and competitiveness, defines the conceptual framework used to instrument R&D and TI policies in Spain, whose specific initiatives are implemented and instrumented in the related State Plans.

2. 2013-2016 State Plan for Scientific and Technical Research and for Innovation

Simultaneous to the approval of the aforesaid Strategy, the Council of Ministers approved the 2013-2016 State Plan for Scientific and Technical Research and for Innovation, which, in line with the objectives and priorities defined in the Spanish Strategy for Science and Technology, defines the instruments to be used to finance R&D and TI activities on the part of the national government, comprising the entire process, from the creation of ideas through the incorporation of those ideas into the market in the form of new products and processes used to improve the quality of life and the wellbeing of all citizens and to contribute to economic development.
3. State incentives for specific industries

This State Plan has the nature of a Strategic Plan pursuant to Subsidies Law 38/2003, of November 17, 2003, and the funds allocated thereunder are granted in competitive tender procedures, in which the selection of the proposals is based on scientific/technical methods and technological, business and commercial viability, supported by internationally validated principles, as well as by standardized and transparent assessment processes based on inter-party assessment committees.

In summary, the objectives of the 2013-2016 State Plan for Scientific and Technical Research and for Innovation have as a common denominator that of bolstering the competitiveness of the business fabric of Spain, founded on a sound scientific and technological base and on promoting innovation in all its dimensions, including most notably the following objectives: (i) promoting the training and employment of human resources in R&D and TI activities in both the public and the private sectors; (ii) increasing the quality of scientific and technical research so that it attains its maximum level of excellence and impact; (iii) strengthening the international capacities and leadership of scientific and technical research institutions, centers and implementation units; (iv) facilitating access to scientific and technological infrastructures and to scientific equipment (in particular to major domestic and international special scientific and technical facilities); (v) boosting business leadership in R&D and TI by enhancing the capabilities of companies in this regard and incorporating SMEs into the innovation process; (vi) favoring the creation and growth of technology-based enterprises and promoting efficient investor networks that provide access to new forms of financing for R&D and TI activities; (vii) increasing cooperation between the public sector and the business sector in connection with R&D and TI; (viii) stimulating R&D and TI aimed at meeting society’s challenges; (ix) promoting the internationalization of the R&D and TI activities of the agents of the Spanish Science, Technology and Innovation System; (x) expanding scientific, technological and innovative culture, as well as the dissemination of the results of scientific-technical research and innovation projects; (xi) going more deeply into R&D and TI policies based on demand.

The initiatives of the national government set forth in the Plan are organized into the following scheme:
3. State incentives for specific industries

Table 10
STATE PROGRAMS

<table>
<thead>
<tr>
<th>Promotion of talent and its employability</th>
<th>Fostering of excellence in scientific and technical research</th>
<th>Business leadership in R&amp;D and TI</th>
<th>R&amp;D and TI aimed at the challenges of society</th>
</tr>
</thead>
</table>

**State Subprograms**
- Training.
- Incorporation.
- Mobility.
- Creation of knowledge.
- Development of emerging technologies.
- Institutional strengthening.
- Scientific and technical infrastructures and equipment.
- Business R&D and TI.
- Essential facilitating technologies.
- Cooperative R&D and TI targeted at the demands of the productive fabric.
- Health, demographic change and welfare.
- Food safety and quality; Productive and sustainable agriculture, sustainability of natural resources, marine and maritime research.
- Safe, efficient and clean energy.
- Intelligent, sustainable and integrated transportation.
- Action on climatic change and efficiency in the use of resources and raw materials.
- Social changes and innovations.
- Digital economy and society.
- Security, protection and defense.

**Strategic Actions**
- Strategic action for health.
- Strategic action for economy and digital society.

In the area of *administrative management*, the Plan attributes the management of the financing instruments provided for in the State Programs, as far as initiatives of the Secretariat of State for Research, Development and Innovation are concerned, to the two R&D and IT financing agencies created under Science, Technology and Innovation Law 14/2011: the Center for Industrial Technological Development (*Centro para el Desarrollo Tecnológico Industrial* or CDTI) and the State Agency for Research (*Agencia Estatal para la Investigación*) soon to be created.

The Plan also covers the approval of Annual Action Programs as instruments of ongoing review for the monitoring and management of the State Plan during its term, from the allocation of available financial resources through programmed initiatives. Such programs are to include a list of the initiatives intended to promote during this annuity, including submission deadlines and time limits on the resolution of proposals, as well as the agencies in charge of managing them.
3. State incentives for specific industries

Lastly, in order to guarantee the success of programmed public initiatives, the Plan provides for the design of indicators of findings and of follow-up for the assessment of the degree of compliance with the objectives stipulated for each State Program, as well as the impact of such program on the objectives stipulated in the Spanish Strategy for Science and Technology itself.

Notwithstanding the provisions of each call for applications for the respective programs and subprograms, in general, the aid included in the State Plan has the following characteristics:

<table>
<thead>
<tr>
<th>Beneficiaries</th>
<th>Types of aid</th>
<th>Forms of participation</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Individuals.</td>
<td>According to the State Program:</td>
<td>• R&amp;D and TI programs and projects: individual or group aid, including public-private cooperation, used to foster the creation of knowledge, its application, and innovation in all its dimensions.</td>
</tr>
<tr>
<td>• Public research agencies, pursuant to Science, Technology and Innovation Law 14/2011.</td>
<td>• Subsidies.</td>
<td>• Contracting and aid targeted at R&amp;D and TI human resources: aid for the training and incorporation of doctors, researchers, technologists, technicians and R&amp;D and TI managers in all stages of their professional careers.</td>
</tr>
<tr>
<td>• Public and private universities with proven R&amp;D capacity, pursuant to Organic Law 6/2001 on Universities.</td>
<td>• Loans.</td>
<td>• Aid for scientific and technical infrastructures and for the acquisition of equipment: aid for the acquisition and maintenance of the scientific and technical equipment required for the pursuit of R&amp;D and TI activities.</td>
</tr>
<tr>
<td>• Other public R&amp;D centers.</td>
<td>• Venture capital instruments.</td>
<td>• Supplementary actions: aid for the performance of a wide spectrum of especially significant actions associated with R&amp;D and TI programs and projects, human resources or infrastructures for the development and pursuit of activities not covered in the preceding forms of participation.</td>
</tr>
<tr>
<td>• Public and private health entities and institutions related to or assisted by the National Health System.</td>
<td>• Other instruments (tax guarantees and incentives, etc.).</td>
<td>• Revitalization actions: aid for the execution of strategic and priority actions which, due to their nature, do not fit the characteristics of the activities covered in the preceding forms of participation (participation in community programs or bilateral or multilateral cooperation with non-EU countries; improvement of scientific communication and innovation, etc.).</td>
</tr>
<tr>
<td>• Certified Health Research Institutes.</td>
<td></td>
<td>• Joint programming initiatives: aid used to bolster scientific and technical research and innovation in in transnational cooperation with a view to facing major scientific challenges on a joint basis.</td>
</tr>
<tr>
<td>• Public and private non-profit entities (foundations and associations) engaging in R&amp;D activities.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Enterprises (including SMEs).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• State technological centers.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• State technological and innovation support centers.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Business groupings or associations (joint ventures, economic interest groupings, industry-wide business associations).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Innovative business groupings and technological platforms.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Organizations supporting technological transfer and technological and scientific dissemination and disclosure.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 11: THE AID INCLUDED IN THE STATE PLAN
3. State incentives for specific industries

For more information please see the following website of the Ministry of Economy and Competitiveness (www.idi.mineco.gob.es/).

3. Strategic Action on Digital Economy and Society

This strategic action, forming part of the State Plan for Scientific and Technical Research and Innovation 2013-2016, comprises a set of measures aimed at the progressive adoption of digital technologies and the development of the Information Society with a view to the transformation of the economy and society towards a digital environment that cuts across all sectors of business activity.

Included within this strategic action are the measures set out in the Digital Agenda for Spain approved in 2013 and structured into six headings: (i) boosting the roll-out of networks and services to guarantee digital connectivity; (ii) developing the digital economy for the growth, competitiveness and internationalization of Spanish enterprises; (iii) improving e-Government and adopting digital solutions for the efficient provision of public services; (iv) strengthening trust in the digital sphere, (v) promoting the R&D&I system in information and communication technology (ICT), and (vi) encouraging the inclusion and digital literacy and training of new ICT professionals.

The action is set to be implemented through various instruments such as competitive calls for applications for domestic and international aid, agreements with third parties, loans, venture capital, innovative public procurement, awareness initiatives, direct implementation programs and other European financing instruments.

At present, the rules governing the grant of aid in the area of information and communication technology (ICT) and the Information Society, within the context of the strategic action on the economy and society, are contained in Order IET/786/2013, of May 7, 2013. The main features of this system of aid are as follows:

— It can take the form of subsidies, loans or a combination of both, with maximum financing, in the case of loans, of up to 100% of the eligible cost of the projects or initiatives, with a variable interest rate to be specified in each call for applications and with a maximum repayment period of 5 years, including a grace period of 2 years.

— The beneficiaries will be enterprises (SMEs and micro-enterprises), research bodies and business groupings or associations (EIGs, joint ventures, industry business associations and innovation clusters).

— The following will be eligible for aid: industrial research projects (planned research or critical studies aimed at acquiring new knowledge and techniques useful for creating new products, processes or services) and experimental development projects (acquisition, combination and use of pre-existing knowledge and techniques, of a scientific, technological or business nature,
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for the development of plans, structures or designs of new, modified or improved products, processes or services).

— The costs eligible for subsidies are, among others, personnel costs, instrument and material costs, contractual research costs, technical knowledge and patents acquired or obtained under a license and additional overhead costs directly deriving from the project.

4. Center for Industrial Technological Development (CDTI)

The CDTI (state-owned business entity under the auspices of the Ministry of Economy and Competitiveness) promotes the technological innovation and development of enterprises, its main objective being to contribute to the improvement of the technological level of enterprises through the pursuit of the following activities:

— Technical/economic evaluation and financing of R&D and TI projects developed by enterprises.
— Management and promotion of Spanish participation in international technological cooperation programs.
— Promotion of the international transfer of business technology and support services for technological innovation.
— Support for the creation and consolidation of technologically based enterprises.

Notwithstanding the more detailed presentation found on the CDTI website (www.cdti.es), the lines available to the CDTI for the financing of R&D and TI projects include most notably the following:

a) R&D Projects:

This line has the purpose of financing applied business projects for the creation and significant improvement of a productive process, product or services, including both industrial research activities and experimental development.

Four categories of projects are eligible for financing under this line:

■ Individual R&D projects for the financing of production processes, products or services submitted by a single enterprise, with a term of 1 to 3 years and a minimum eligible budget of €175,000.

■ National Cooperation R&D Projects for projects submitted by business groupings (EIGs or consortiums) with a term of 1 to 3 years and a total minimum eligible budget of €500,000 (and a minimum budget per enterprise of €175,000).

■ International Technological Cooperation Projects for the financing of the participation of Spanish enterprises with a joint collaboration agreement with foreign enterprises participating in international technological cooperation programs managed by the CDTI.
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(multilateral, bilateral programs, international programs with certification and unilateral monitoring by this body) or with an increase in the technological capacity of Spanish enterprises to enhance their possible participation in large international scientific-technological facilities. In these cases, the minimum eligible budget of the Spanish enterprise will be €175,000.

- R&D&I projects under a specific call, for R&D&I projects submitted in the context of a specific call for applications published by the CDTI and which will have the aid established in its own call.

The instruments for financing the projects included in this line consist of partially repayable aid (only a part of the aid granted must be repaid to the CDTI), for up to a maximum of 75% of the total budget of the approved project, or 85% on an exceptional basis.

In these projects, the costs eligible for subsidies will be, among others, personnel costs, instrument and material costs, contractual research costs, technical knowledge and patents or certain costs deriving from consulting and equivalent services aimed exclusively at research activities.

Regarding the advances of the aid that can be obtained, it is necessary to distinguish between (i) projects co-financed by the Technological Fund (ERDF Fund) with respect to which the CDTI can grant an advance of 75% of the committed aid (guaranteed by a financial institution or a mutual guarantee society with sufficient solvency in the opinion of the CDTI), and (ii) projects financed with CDTI funds or ERDF funds of the Madrid and Navarra operating programs, with respect to which the CDTI may generally grant advances of 25% of the aid granted up to a limit of €200,000. These advance may be up to 50% or 70% of the aid granted, provided that the applicant provides guarantees from financial institutions or mutual guarantee societies with sufficient solvency in the opinion of the CDTI, to guarantee the excess over the 25% advance.

b) Direct Innovation Line

This financing instrument, directly managed by the CDTI and co-financed with Structural Funds through the Research, Development and Innovation Operating Program, under the “de minimis” rules, is aimed at enterprises (regardless of their size), which carry out technological innovation projects whose objectives cover one or more of the following cases: (i) active incorporation and adaptation of technologies entailing an innovation at the enterprise, as well as processes aimed at improving technologies and adapting them to new markets; (ii) the application of the industrial design and engineering of the product and process for technological improvement (projects that not only entail technological modernization for the enterprise, but also a technological leap in the industry in which the enterprise operates); or (iii) application of a new or significantly improved production or supply method (including significant changes in the area of techniques, equipment and/or software).
3. State incentives for specific industries

Projects cannot last more than 18 months and the minimum eligible budget will be €175,000. The amount of the financing will be 75% of the eligible budget (CDTI funds), which can be increased to 85% if co-financed by ERDF funds.

Investments eligible for financing will include the acquisition of new fixed assets, personnel, material and consumables, external collaborations, overhead costs and audit costs.

It will be possible to opt for an advance of 25% of the aid granted (up to €300,000) without additional guarantees, or up to 50% or 75% by providing guarantees from financial institutions or mutual guarantee societies with sufficient solvency in the opinion of the CDTI.

c) Global Innovation Line

This line is targeted at financing projects aimed at investing in innovation and incorporating innovative technology for the growth and internationalization of enterprises that pursue their activities in Spain, both at facilities located in Spain and abroad, with a view to meeting the requirements of new markets, improving the competitive position of the enterprise and generating added value.

Projects that are eligible for this program must strengthen the value-added activities that are carried on in Spain and, although they may entail the internationalization of the enterprise’s activities, they cannot lead to the activity being relocated.

This aid is available to SMEs and midcap companies. The maximum duration of the projects may not exceed 2 years and the minimum eligible budget will be €667,000, up to a maximum of €10,000,000, including as eligible items the acquisition of new fixed assets related to the innovation intended to be implemented, the engagement of external services and outsourcing and audit expenses.

The amount of the financing may be up to 75% of the total eligible budget, and the full financing for the project must be assured by guarantees from financial institutions with sufficient solvency, for 50% of the loan, which may reach 100%. The interest rate will be calculated loan to loan, taking into account the characteristics of the transaction and of the beneficiary, with a repayment term of 7 years. Advances of 25%, 50% or 70% of the loan may be obtained up to a maximum of €4 million, without guarantees beyond those already required.

d) Technological Fund

The Technological Fund is a special item under the ERDF funds of the European Union dedicated to the promotion of business R&D + TI in Spain, the CDTI having been designated as manager of part of the Fund. Although access to this Fund is open to all Spanish enterprises, in its distribution priority was given to those carrying out projects in the regions to which more attention has traditionally been paid by the budgetary instruments of the EU Cohesion Policy (i.e. Andalucía, Extremadura, Castilla-La Mancha, Galicia), as described in
3. State incentives for specific industries

paragraphs 4 and 8 of this chapter. The Technological Fund is mobilized through the Center’s financial instruments and is assigned to proposals in accordance with the availability of funds in the Autonomous Community in which the project is to be carried out. For example, where R&D projects are funded jointly with the Technological Fund, the enterprise obtains a non-repayable tranche which varies depending on the area in which the project is to be carried out (from 20% to 10% according to the development area of the project).

Although, according to information published by the CDTI, the Technology Fund is still in force, it is possible that changes in its endowment and operating budget may occur, derived from the new framework of the European Union and the new regulation of the Structural Funds referred in paragraph 8 of this chapter.

e) INNPRONTA Program

This program is aimed at financing major integrated industrial research projects with a strategic nature and a large size, which permit the development of new technologies in technological areas of the future with economic and commercial exposure at international level and, in particular, in the topical areas of energy, environment, climatic change, biotechnology, health and food.

Potential beneficiaries targeted by the aid are business consortiums or ElGs formed by not less than four and not more than ten enterprises, all independent among themselves, of which at least one must be large or medium-sized and another must be an SME. No enterprise should bear, by itself, more than 70% of the eligible costs of the cooperation project.

Projects must have a minimum budget of €15 million and a term of 4 calendar years, and will require the significant participation of at least two research bodies, formalized under subcontract by the enterprises making up the grouping.

The financing granted under this program will consist of a combination of subsidies and loans which can equal up to 75% of the project’s eligible budget (eligible expenses being the costs of equipment and instruments –depreciation-, personnel expenses and the costs of contracting and subcontracting, additional overhead expenses and other operating costs).

f) INNODEManda Program

INNODEManda Program is a financing instrument to support the technological offer in innovative public procurement processes convened by Public Administrations. This program finances an enterprise’s innovation costs required in a particular public procurement process, in such a way that the contracting body will have more competitive offers, fostering a greater use of innovative products and services by the Administration.

The operation of this program requires a synchronization between the scheduled time of a particular procurement and the time of application, analysis and resolution of the R&D by the CDTI required for participation in the that tender.
3. State incentives for specific industries

To this end, it is necessary the formalization of a Adhesion Protocol between the CDTI and the contracting bodies, specifying, among others, the most significant milestones established in the invitation to tender, as well as the implementation deadlines, conditions and legislation applicable to the financing offered by the CDTI for R&D activities.

g) NEOTEC Initiative

The NEOTEC Initiative has the purpose of supporting the creation and consolidation of new technology-based enterprises in Spain.

Technology-based enterprises wishing to opt for NEOTEC financing must be considered a SME and be less than 4 years old. In addition, they must submit a business plan covering 5 years, of which the CDTI will be able to finance, at the most, the first two years following the date of the application for the aid. The minimum eligible budget will be around €175,000, including as eligible costs: investments in fixed assets, personnel, material, external collaboration costs, the costs of admission to listing on the Alternative Stock Market and other costs. In no case will costs and investments prior to the application be financed.

The aid will take the form of a loan at a fixed interest rate of 1-year Euribor + 0.1% to be set when the project is approved. The aid can cover up to 70% of the accepted costs of the business plan submitted, up to a maximum of €250,000.

In addition, in an attempt to enable technological enterprises to avail themselves of the possibility of financing through venture capital instruments, the “NEOTEC Venture Capital Program” was designed as a joint initiative of the CDTI and the European Investment Fund (EIF), aimed at revitalizing the national venture capital market, either by contributing capital to funds being incorporated or by executing joint investment agreements with funds already operating.

In order to guarantee maximum flexibility and optimum access, the NEOTEC Venture Capital Program is structured as two actions which are to function through the following vehicles:

- The “NEOTEC Capital Riesgo” venture capital company, which is to act as a fund of funds, investing in venture capital investment vehicles managed by qualified teams based in Spain.

- The “Coinversión NEOTEC” venture capital company, which is to invest jointly with pre-selected venture capital investment vehicles (acting as a Joint Investment Fund) in Spanish technological SMEs.

However, the CDTI is currently reviewing the conditions and the functioning of the NEOTEC Aid, so there is a possibility that this line of aid may undergo changes.

h) INNVIERTE

This program seeks to promote business innovation by supporting venture capital investments in technology-based enterprises.
3. State incentives for specific industries

It is implemented through two venture capital firms which have the CDTI as their sole shareholder and which are self-managed and subject to oversight by the CNMV: (i) Innvierte Economía Sostenible Coinversión, S.A. and (ii) Innvierte Economía Sostenible, S.A.

The basis of the program is to facilitate the flow of private capital into small and medium-sized Spanish tech companies under market conditions in order to boost their technological activities and provide them with management and internationalization capabilities and market knowledge.

The venture capital investments to be made under the program must meet, among others, the following requirements: (i) they must be made in Spanish SMEs, in the early stages, that are tech-based or innovative and present the potential for high returns; (ii) they must consist of the acquisition of temporary stakes in the capital stock of the target SMEs; (iii) the amount of the investment must generally be for more than €500,000, without exceeding €2,500,000, per SME; (iv) private financing must be at least 50%; (v) non-controlling shares will be acquired in the target SME; (vi) the investment decisions will be adopted on a commercial basis and will be aimed at increasing profits; (vii) the SME must be managed by professionals from the private sector with experience in the technological sector in question; (viii) private investors will take the lead on any necessary transactions to implement the investments and divestments; (ix) the risks and rewards must be shared with the private investor with strict equality of rights and obligations and in proportion to their respective contributions.

i) Internationalization of R&D and TI

At international level, the CDTI offers support to Spanish enterprises and promotes technological cooperation abroad through various programs aimed at financing cooperation projects and initiatives, including most notably:

- ININTERNACIONALIZA Initiative

Is aimed at boosting the international use of the findings of R&D activities carried on by Spanish enterprises. The minimum eligible budget under this initiative is €75,000, including items relating to the internationalization of industrial property (costs of grant and renewal and defense of the right in first and successive jurisdictions) and to innovation advisory and support services (technological management and assistance).

Projects, which should have a term of between 6 and 24 months, will be financed with partially repayable aid of up to 75% of the approved budget (at a fixed interest rate of 1-year Euribor, repayable in 10 years and with a 3-year grace period), with a non-repayable tranche of 5%. The aid will be paid in two phases: a 25% advance of the aid approved, upon execution of the contract (up to a limit of €200,000) and the remainder at the end of the project.
3. State incentives for specific industries

**INNVOLUCRA Program**

With a view to boosting the participation of Spanish entities in international technological cooperation programs and the submission of bids to large scientific/technological facilities, this program establishes various specific measures such as: (i) aid for the preparation of Community proposals (Ayudas a la preparación de Propuestas Comunitarias or “APC”); (ii) aid for participation in bids to large facilities (Ayudas a la Participación en Ofertas a grandes instalaciones or “APO”); (iii) management Specialization Program in Brussels; (iv) international technological promotion actions (Acciones Internacionales de Promoción Tecnológica or “AIPT”) and (v) information and guidance services for entities that wish to participate in tenders of large scientific/technological facilities.

**EUROSTARS Program**

The aim of this EU Program is to aid the development of transnational market-based projects by SMEs engaging in intensive R&D activities. It is ultimately about favoring the generation of projects of this nature which represent a break with the technical state of the art and a commercial challenge in such a way as to enable these enterprises to take a significant qualitative leap in their position on the market.

The mechanisms envisaged for materializing the aid designed under this program are fundamentally the following: (i) promoting the technological and business development of the participating enterprises; (ii) providing these enterprises with public financing; (iii) promoting economic activities based on R&D findings, as well as the most rapidly introduced products, processes and services; (iv) creating a European mechanism to support these organizations.

At national level, the participation of Spanish enterprises in this Program is encouraged through the International Inter-enterprises Subprogram included under the National Plan for the Internationalization of R&D, through which subsidies are granted to applied research projects submitted by national enterprises to the EUROSTARS Program.

**ERA-NET**

The ERA-NET scheme consists of a set of European networks of public bodies that provide financing for R&D&I at national level, with the objective of coordinating the research and innovation programs of the European states and regions, and of mobilizing resources to jointly meet technological and strategic challenges in a more focused, consistent and effective manner.

Projects that elect to receive CDTI financing through calls for ERA-NET initiatives must comply with the eligibility and financing rules established for International Technological Cooperation Projects described above, as well as with the rules laid down in each specific call.
Lastly, it should be noted that, in the context of the above programs and lines of aid, the CDTI has recently approved 141 new R&D&I projects with a total budget of more than €94,000,000. Of the initiatives approved, 115 are individual R&D projects, 19 belong to the Direct Innovation Line, 4 are consortium R&D projects participated in by 9 companies; 2 relate to the Global Innovation Line and, finally, 1 project will receive aid from the Innternacionaliza program. In addition, 18 of the projects approved will be co-financed by the Technological Fund.

Table 12

<table>
<thead>
<tr>
<th>Type of Project/Aid</th>
<th>Projects</th>
<th>CDTI Contribution (euros)</th>
<th>Total budget (euros)</th>
<th>Percentage financed (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual R&amp;D Projects</td>
<td>115</td>
<td>56,449,453.12</td>
<td>74,212,864.67</td>
<td>76%</td>
</tr>
<tr>
<td>Cooperative R&amp;D</td>
<td>4 (9)*</td>
<td>2,493,410.67</td>
<td>3,112,277.43</td>
<td>80%</td>
</tr>
<tr>
<td>Direct Innovation Line</td>
<td>19</td>
<td>9,718,538.06</td>
<td>12,712,983.14</td>
<td>76%</td>
</tr>
<tr>
<td>Global Innovation Line</td>
<td>2</td>
<td>2,417,233.50</td>
<td>3,222,978.00</td>
<td>75%</td>
</tr>
<tr>
<td>Innternacionaliza</td>
<td>1</td>
<td>861,651.00</td>
<td>1,148,868.00</td>
<td>75%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>141</td>
<td>71,940,286.35</td>
<td>94,409,971.24</td>
<td>76%</td>
</tr>
</tbody>
</table>

* The parentheses denote the individual operations deriving from consortium projects
Source: CDTI

The CDTI also provides personalized advice to companies and entrepreneurs on the financing instruments that are best suited to their R&D&I-related needs and projects. To access this service, interested companies need to fill out an electronic form and attach to it the documentation on the project being submitted to the CDTI for its assessment (more information at www.cdti.es).

3.2. Tourism industry

Against the backdrop of the European monetary union and economic and social convergence, and in a competitive environment characterized by the globalization of supply and demand and the internationalization of tourism companies, the Spanish tourism industry is seeking to strengthen its leadership position based on quality.

For this purpose, the Spanish Tourism Plan Horizon 2020 is aimed at reaching the following objectives: (i) to increase the social and economic benefits of tourism; (ii) to achieve a social/territorial rebalance which boosts the tourist business at new destinations; or (iii) to improve the quality of the national and cultural environment by reducing the potential negative impact of the tourist business.

Notwithstanding the foregoing, the Integral National Tourism Plan (Plan Nacional Integral de Turismo or PNIT) 2012-2016 was approved in order to palliate the consequences of the global
financial crisis for the Spanish tourist industry, and with a view to boosting the competitiveness of tourist enterprises and destinations, recovering the industry’s leadership position.

Specifically the essential objectives of this Plan are as follows: (i) to increase tourism and its profitability; (ii) to generate quality jobs; (iii) to boost market unity; (iv) to improve international positioning; (v) to improve cohesion and public knowledge of the Spanish brand; (vi) to favor joint public/private responsibility; and (vii) to overcome the seasonal nature of tourism.

In this context, two programs were started up in 2013:

1. **Emprendetur-Young Entrepreneurs**

Order IET/2482/2012 regulates the specifications for the grant of aid under this program. The call for aid applications for projects and actions within this program for the year 2015 has been made by way of the Decision of November 24, 2014, of the Secretary of State for Tourism. The aid included in this program has the following characteristics:

   — It takes the form of **loans**, with maximum financing of up to 100% of the eligible cost (although the financed amount cannot exceed €1,000,000 or the net worth figure evidenced by the enterprise when applying for the aid). The estimated maximum amount to be allocated to funding the call for 2015 is €30,000,000.

   — The maximum **repayment** period is 5 years, including a maximum 2-year grace period.

   — The applicable **interest rate** is determined in each call for aid applications. Specifically, in the call for 2015, the applicable interest rate will be 0.967%. Potential **beneficiaries** are individuals resident in Spain under 40 years of age and legal entities validly incorporated in Spain at which the average age of the partners is equal to or less than 40, which are SMEs, with a corporate form incorporated not more than 24 months prior to the application. The grant of the aid will not require the beneficiary to provide a guarantee.

   — In connection with their **purpose**, eligible projects and business models are those which comply with the measures identified in the PNIT and with certain areas of scientific and technological knowledge of the tourist industry provided for in the above-mentioned Decision (energy and sustainability, CIT, materials and construction, humanities, society and legal sciences, transportation and associated services, business management and accessibility). These projects and business models (or the expenses funded out of the loan) must have begun to be executed after December 1, 2014, and must be completed within not more than 2 years.

   — *Eligible expenses* are, inter alia, rental or leasing expenses; personnel, advisory or outsourcing expenses, and other operating expenses.

   — It is **compatible** with other aid, subject to certain rules regarding aid received with a charge to other calls for aid applications.
3. State incentives for specific industries

— Applications for aid for the 2015 call for the Young Entrepreneurs Emprendetur program will be addressed to the Secretary of State for Tourism and will be filed with the electronic register of the Ministry of Industry, Energy and Tourism.

2. Emprendetur R&D&I Program

This Program comprises the “Emprendetur R&D” and “Emprendetur Development of Innovative Products” lines. The essential characteristics of this program are stipulated in Order IET/2481/2012, establishing the specifications for this aid. The call for aid applications for projects and actions within this program for the year 2015 has been made by way of the Decision of November 24, 2014, of the Secretary of State for Tourism. The main features of these lines are as follows:

— It takes the form of loans, with maximum financing of up to 75% of the eligible cost of the projects or initiatives, although the financed amount cannot exceed €1,000,000 or the net worth figure evidenced by the enterprise when applying for the aid. The estimated maximum amount to be allocated to financing the call for 2015 is €80,000,000 (€40,000,000 for each of the lines provided for in the program).

— The maximum repayment period is 5 years, including a maximum 2-year grace period.

— The applicable interest rate is determined in each call for aid applications. Specifically, in the call for 2015, the applicable interest rate will be 0.967%. Potential beneficiaries are individuals resident in Spain and legal entities validly incorporated in Spain (excluding public corporate enterprises, state-owned business entities and any other enterprise formed under or governed by public law).

— For this aid to be granted, it will be necessary to provide the guarantees set out in the 2015 call which, in any of their forms, must cover 36% of the amount of the proposed loan. The arrangement of the guarantee must be evidenced for the proposed loan to be considered accepted and the status of beneficiary acquired.

— The projects and business models that are eligible for aid are those which fall within the areas of technological and scientific knowledge of the tourism industry provided for in the above-mentioned Decision (energy, sustainability, CIT, materials and construction, humanities, society and legal sciences, transportation and associated services, business management and accessibility). These projects and business models (or the expenses funded out of the loan) must have begun to be executed after December 1, 2014 and must be executed within not more than 3 years.

— Eligible expenses are, inter alia, personnel expenses, the cost of inventories of instruments and other materials, the costs of contractual research, technical knowledge and patents acquired or obtained under license.
3. State incentives for specific industries

— It is compatible with other aid, subject to certain rules regarding aid received with a charge to other calls for aid applications.

— Applications for aid for the 2015 call for the Emprendetur R&D&I program will be addressed to the Secretary of State for Tourism and will be filed with the electronic register of the Ministry of Industry, Energy and Tourism.

Lastly, a new aid program was launched in 2014, called Emprendetur Internationalization as part of the National Integral Tourism Plan. The rules governing it were approved by Order IET/2200/2014, of November 20, 2014, and its ultimate goal is the internationalization of the Spanish tourism industry by opening up new international tourism markets, increasing or enhancing pre-existing ones and exporting Spanish tourism products or services to third countries. This program will be described in section seven of this chapter.

3.3. Audiovisual industry

One of the priority objectives of Cinema Law 55/2007 is to bolster the promotion and development of the production, distribution and showing of films and audiovisual works, as well as to establish terms favoring their creation and dissemination and to adopt measures for the preservation of filmmaking and audiovisual heritage.

Apart from the tax incentives applicable to the film-making industry, the following are some of the main incentives included in the Cinema Law, as well as in Order CUL/2834/20009, setting forth the rules for applying Cinema Royal Decree 2062/2008 (regulatory implementation of Law 55/2007), in connection with the acknowledgement of film costs and producers’ investments, the establishment of the terms of reference for state aid and the structure of the Administrative Register of Cinematographic and Audiovisual Enterprises.

Spanish-resident individuals and Spanish companies and companies from other European Union or European Economic Area Member States established in Spain and registered on the Administrative Register of the Cinematography and Audiovisual Arts Institute may qualify for these incentives.

The structure of the aid system is as follows:
# Table 13
**STRUCTURE OF THE AID SYSTEM**

<table>
<thead>
<tr>
<th>Line of aid</th>
<th>Eligible for aid</th>
<th>Maximum amount (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scriptwriting of full-length motion projects.</td>
<td>Projects for the preparation of full-length motion picture scripts which comply with the terms of the call for aid applications (i.e., they are in any of the official languages of Spain, they are original, etc.).</td>
<td>€40,000 per project with a maximum of 15 grants of aid per call.</td>
</tr>
<tr>
<td>Development of full-length motion picture projects.</td>
<td>The expenses need to develop the projects (improve the script, search for locations, identification of cast, initial sales plans, etc.).</td>
<td>It cannot exceed €150,000, provided that such amount does not exceed 50% of the budget for developing the project or of the producer’s investment.</td>
</tr>
<tr>
<td>Cultural and non-regulated training projects.</td>
<td>Projects (i) belonging to the theoretical field or the field of editing, inter alia, which are capable of enriching the Spanish audiovisual panorama from a cultural standpoint or (ii) supporting specific non-regulated training programs: for professionals (including creative and technical personnel) or for the general public.</td>
<td>It cannot exceed €50,000, provided that such amount does not exceed 50% of the project’s budget.</td>
</tr>
</tbody>
</table>
3. State incentives for specific industries

<table>
<thead>
<tr>
<th>Line of aid</th>
<th>Eligible for aid</th>
<th>Maximum amount (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Production of full-length motion pictures projects.</td>
<td>Projects (i) of special cinematographic, cultural or social value, (ii) for a documentary, (iii) of an experimental nature, or (iv) incorporating new producers.</td>
<td>It cannot exceed €1,000,000 per beneficiary motion picture, provided that such amount does not exceed the producer’s investment, or 50% of the project’s budget.</td>
</tr>
<tr>
<td>Production of TV movie and documentary projects.</td>
<td>TV movie and documentary projects which are longer than 60 minutes and shorter than 200 minutes, and which are not to be shown in movie theaters, provided that, among other requirements, they are filmed on photochemical medium or high definition digital medium. For a project to be eligible for aid, there must be a contract or a statement of interest in the project from one or more radio or television broadcast service providers.</td>
<td>Calculated by applying the appropriate percentage, according to different tranches, to the amount of the budget (which cannot be less than €700,000), with maximum annual credit of €300,000, provided that such amount does not exceed the independent producer’s investment or 50% of the budget.</td>
</tr>
<tr>
<td>Production of animated series projects.</td>
<td>Animated series projects. For the project to be eligible for aid there must be a contract or a statement of interest in the project from one or more radio or television broadcast service providers.</td>
<td>It cannot exceed €500,000 for budgets exceeding €2,500,000, and €300,000 for budgets of lower amounts. In both cases, said amounts cannot exceed the independent producer’s investment or 60% of the budget.</td>
</tr>
</tbody>
</table>
### Table 13 (cont.)

**STRUCTURE OF THE AID SYSTEM**

<table>
<thead>
<tr>
<th>Line of aid</th>
<th>Eligible for aid</th>
<th>Maximum amount (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General.</strong></td>
<td>Amortization of the cost of producing full-length motion pictures which meet a number of requirements (Spanish nationality, classed by age groups, acknowledged cost and producer’s investment, etc.).</td>
<td>The maximum amount of the general aid for amortization cannot exceed €400,000, provided that such amount does not exceed 50% of the film’s cost or 75% of the producer’s investment. The aid will be conditional on the liquidation resulting from the number of spectators.</td>
</tr>
<tr>
<td><strong>Amortization of full-length motion pictures.</strong></td>
<td>Amortization of the cost of producing full-length motion pictures (i) whose acknowledged cost is at least €600,000, (ii) which have not obtained aid for the production of full-length motion picture projects, and (iii) which meet a number of requirements (Spanish nationality, classed by age groups, acknowledged cost and producer’s investment, etc.).</td>
<td>The maximum amount of the aid cannot exceed €1,200,000, provided that such amount does not exceed 50% of the film’s cost or 75% of the producer’s investment. The amount is calculated according to a number of parameters (type of full-length motion picture, invitation to the official section of film festivals of recognized international prestige, nature of the production company, investment, etc.).</td>
</tr>
<tr>
<td><strong>Production of short film projects.</strong></td>
<td>Short film projects.</td>
<td>The maximum amount of the aid cannot exceed the producer’s investment or 50% of the film’s budget. Compatible with aid for the production of completed short films, although the sum of the two types of aid cannot exceed the cost of the film or the maximum ceiling of €70,000 per beneficiary film.</td>
</tr>
<tr>
<td><strong>Production of completed short films.</strong></td>
<td>Completed short films.</td>
<td>The maximum amount of the aid cannot exceed 75% of the producer’s investment. Compatible with aid for the production of short film projects, although the sum of the two types of aid cannot exceed the cost of the film or the maximum ceiling of €70,000 per beneficiary film.</td>
</tr>
</tbody>
</table>
### 3. State incentives for specific industries

#### Table 13 (cont.)

**STRUCTURE OF THE AID SYSTEM**

<table>
<thead>
<tr>
<th>Line of aid</th>
<th>Eligible for aid</th>
<th>Maximum amount (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>Distribution of full-length and short films, where less than 2 years have elapsed since they opened in the country of origin, in movie theaters, mainly in the original version.</td>
<td>The maximum amount of the aid cannot exceed €150,000 per full-length beneficiary film or group of short films, with a ceiling of 50% of the cost of the making of copies, subtitling and advertising and promotional expenses.</td>
</tr>
<tr>
<td>Distribution of Community or Latin American films.</td>
<td>Distribution of full-length and short films, which incorporate audio description systems for the blind and persons with visual disabilities, and special subtitling systems for the deaf and persons with hearing disabilities, including distribution on videographic support via internet.</td>
<td>The maximum amount of the aid cannot exceed €150,000 per full-length beneficiary film or group of short films, with a ceiling of 60% of the cost of the technical means and resources necessary to prepare the films for groups with disabilities.</td>
</tr>
<tr>
<td>Supplementary.</td>
<td>Making of duplicates necessary to guarantee the preservation of cinematographic and audiovisual works and their original media, for the production companies or owners of films which undertake not to export for at least 10 years the original negative of the films and, among other requirements, deposit the related medium with the Spanish Film Library or the Film Library of the appropriate Autonomous Community.</td>
<td>The maximum amount of the aid cannot exceed €75,000, and the amount of each grant of aid cannot exceed 50% of the cost of making such duplicates as are necessary to perform the preservation function.</td>
</tr>
<tr>
<td>For the protection of cinematographic heritage.</td>
<td>Participatory of Spanish films in festivals and award ceremonies of recognized prestige.</td>
<td>To be determined in each call for aid applications.</td>
</tr>
<tr>
<td>For promotion.</td>
<td>Organization and holding of film festivals or competitions of recognized prestige in Spain, and which devote special attention to the programming and dissemination of Spanish, EU and Latin American cinema and audiovisual works.</td>
<td>To be determined in each call for aid applications.</td>
</tr>
</tbody>
</table>
3. State incentives for specific industries

Table 13 (cont.)
STRUCTURE OF THE AID SYSTEM

<table>
<thead>
<tr>
<th>Line of aid</th>
<th>Eligible for aid</th>
<th>Maximum amount (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>For the production of audiovisual works using new technologies.</td>
<td>Production of audiovisual works which use new technologies in the audiovisual and cinematographic field and are distributed using any electronic means of transmission which allows for the broadcast and receipt of both image and sound other than as transmitted for movie theaters, television or domestic videos.</td>
<td>The maximum amount of the aid cannot exceed €100,000, provided that such amount does not exceed 50% of the project’s budget.</td>
</tr>
</tbody>
</table>

Notwithstanding the foregoing, please note that the Institute for Film-making and Audiovisual Arts (Instituto de la Cinematografía y de las Artes Audiovisuales or ICAA) is authorized to set up cooperation agreements with banks and other credit institutions with a view to facilitating and extending the financing of production, distribution and projection activities, technical industries and the video-making sector and for the development of infrastructures or the technological innovation of those sectors.

This financing alternative is materialized in various types of aid:

- Aid for reducing interest on loans granted for production aimed at facilitating cinematographic production activities for production companies which had not received aid for the production of full-length motion picture projects.

- Aid for reducing interest on loans granted for distribution and dissemination as film, video and via internet, or the technological renewal of these sectors.

- Aid for reducing interest on loans for the financing of film projection and post-production infrastructures used by enterprises, laboratories, studios and the production and post-production technical industry.

3.4. Other specific industries

3.4.1. Mining

Regulations governing the mining sector are included in Order ITC/1231/2010, which sets forth the specifications for the grant of aid for risk prevention and mining safety in the area of sustainable mining, for geological and mining prospecting and research and for improving the productivity
3. State incentives for specific industries

of non-energy mining activities. The aim of the aforesaid Order was to unify the independent regulations on aid for geological and mining prospecting and research and aid for risk prevention and mining safety.

In particular, this Order sets forth the specifications for the grant of aid in the following areas:

- Risk prevention and mining safety in the area of sustainable mining. In this area, two types of action: (i) significant investment projects in safety at benefit mines and establishments and (ii) training programs.
- Geological and mining prospecting and research.
- Improving the productivity of non-energy mining activities in Spain.

Potential beneficiaries of this aid are public or private enterprises, as well as groupings of such enterprises, provided that both hold the title to the mining public domain covered in the project. Non-profit institutions can also be beneficiaries, provided that they have a lawful interest relating to the mining activity. In any case, the subsidies will be awarded on a competitive basis.

The amount of this aid will be equal to an amount of the approved eligible investment and varies by type of aid:

- Aid for geological and mining prospecting and research. The amount of the subsidy may be up to 20% of the total investment deemed eligible, able to be increased by 10% in the case of SMEs and an additional 10% if the project entails the opening of a new workplace.
- Aid for significant investments in safety and for investments to improve productivity. The amount of the aid may be up to 20% of the eligible investment for small companies and 10% for medium-sized companies (with certain qualifications according to Autonomous Community, in which it may be equal to 20% independent of the size of the enterprise).
- Mining safety training programs: the aid will be equal to 100% of the cost of the approved eligible investment if the applicant is a non-profit institution which meets the aforesaid requirements, up to 60% of the costs of the eligible investment in the case of large companies, and 70% in the case of SMEs.

The Order ITC/1231/2010 expired on December 31, 2013, and the Ministry of Industry, Energy and Tourism has stated that a new order is being prepared which will revise the rules on aid in this industry.

Of special relevance within the mining industry is the Action Framework for Coal Mining and Mining Districts in the 2013-2018 Period, which has, among others, the following objectives:
3. State incentives for specific industries

1. To foster the continuation of competitive local coal production that makes it possible to guarantee a certain level of electricity production which, in addition to supporting the security of supply, contributes to developing renewable energy sources.

2. To ensure a sufficient share of national coal in the electricity generation mix, within the limits set by the European legislation, and for the entire period covered by this Framework.

3. To facilitate the orderly closure of non-competitive coal mines.

Against this backdrop, the government has launched a host of new aid initiatives aimed at alternative development in mining regions, including most notably the following:

1. Aids to job creating business projects (regulated in Order IET/1158/2014, of June 30, 2014), which promote alternative development in mining regions. These aids are aimed at promoting the establishment of business investment projects in areas affected by the restructuring of coal mining and their surrounding areas in order to generate alternative economic activities to coal mining.

   These aids are available to business investment projects that are established in municipalities affected by the restructuring and modernization of coal mining, subject to the restrictions set out in the new Map of regional aid for the 2014-2018 period.

2. Business Project De Minimis Aids (regulated in Order IET/1157/2014, of June 30, 2014), aimed at small business projects that create jobs, which promote alternative development in mining regions. These aids seek to promote the establishment of small business investment projects in areas affected by the restructuring of coal mining and their surrounding areas in order to generate alternative economic activities to coal mining.

   These aids are available to small business investment projects that are established in municipalities affected by the restructuring and modernization of coal mining, subject to the restrictions set out in the new Map of regional aid for the 2014-2018 period.

Aid for the development of infrastructure and restoration of areas that have been degraded by mining (regulated in Royal Decree 675/2014, of August 1, 2014). This aid is granted directly and is aimed at promoting alternative development in coal mining regions by executing infrastructure projects and projects aimed at restoring areas degraded by mining. In addition, the aid seeks to provide incentives for development alternatives to coal mining by funding actions that are consistent with and supplementary to the regional and local planning, and additional to the investment efforts of the autonomous community governments and the central government. The aid is available to the mining municipalities of the autonomous communities of Aragón, Castilla La Mancha, Castilla León and the Principality of Asturias (exceptionally, specific actions may be considered in the municipalities affected by coal mining in Andalucía, Cataluña and Galicia).

Lastly, please note that until 2012 calls for specific aid applications were made to facilitate the closing of non-competitive coal mines (social aid for labor costs relating to older workers, for
3. State incentives for specific industries

labor costs through terminations with severance pay, to cover losses on the current production of production units, and to cover extraordinary costs deriving from closure and environmental impact mitigation), in compliance with Community legislation. This aid was aimed at covering, in whole or in part, the current losses incurred on native coal production used in the generation of electricity, from the production units of coal mining companies subject to closure plans to be completed on December 31, 2018 at the latest.

However, based on information provided by the Ministry of Industry, Energy and Tourism, it is not possible to confirm whether new calls for aid will be made with this aim.

3.4.2. Industrial Investment

The process of adapting certain traditional industrial sectors to new forms of production, against a backdrop of processes to rationalize and modernize the business segment, has caused severe losses in the productive fabric and a significant elimination of jobs.

In an effort to mitigate and, to the greatest extent possible, avoid such noxious effects on the industrial fabric as a whole and, in particular, on the areas most affected by the aforesaid adaptation process, the Ministry of Industry, Energy and Tourism has been launching support initiatives with a view to promoting, regenerating or creating the industrial fabric.

The current initiative is Order IET/619/2014, of April 11, 2014, setting forth the specifications for the grant of financial aid for industrial investment in the context of the public policy on reindustrialization and fostering industrial competitiveness, which sets forth the regulatory specifications for the grant of aid for reindustrialization initiatives, as well as for the fostering of competitiveness in strategic industrial sectors. The purpose of this order is to bring the criteria of former reindustrialization programs into line with that of programs for the development of strategic industrial sectors, placing special interest in enterprises which incorporate advanced technologies in their processes and products, create qualified jobs with the greatest possible contribution of added value and, in short, contribute to increasing the country’s export base.

This aid will generally take the form of financial support through long-term loans.

The following will be its two main lines of action:

- Reindustrialization program: Its purpose is to fund actions that entail an investment in new production centers, whether by relocating the production activity from another pre-existing site or by creating a new establishment. Likewise, financial support will be provided to establish new production lines in pre-existing establishments.

- Industrial Competitiveness Promotion Program: It is aimed at supporting the execution of any type of improvement or modification of pre-existing production lines.

Potential beneficiaries of the aid contemplated in the two initiatives are private enterprises which pursue or are going to pursue a productive industrial activity.
3. State incentives for specific industries

The following are the eligible expenses:

- For investments in the formation of industrial establishments: expenses incurred on civil works (investments in development and piping), building expenses (construction, expansion or fitting out of industrial premises, as well as installations and equipment not directly related to production), tangible assets directly associated with production. The sum of the civil works and building items may not exceed 70% of the total eligible budget.

- For investments aimed at relocating industrial establishments, at establishing new production lines and at enhancing and/or modifying pre-existing production lines: civil works expenses (investments in development and channels), building expenses (construction, expansion or refitting of industrial buildings as well installations and equipment not directly linked to production), production device and equipment expenses (acquisition of fixed assets directly related to production) and production process engineering expenses (expenses of own staff, necessary materials and external partnerships required to design processes linked to the above-mentioned production devices and equipment). The sum of the civil works and building items may not exceed the budget of devices and equipment linked to production (except where industrial establishments are relocated, in which case it may reach 70% of the total eligible budget). In addition, production process engineering expenses may not exceed 30% of the acquisition cost of the production devices and equipment.

The minimum eligible budget will be regulated in the relevant call and the funding to be granted will be 75% of that budget. For enterprises formed in the year to which the call relates, or in the immediately preceding year, the loan may not exceed three times their demonstrable equity.

The aid will be granted in competitive tender procedures and the rules on interest rates will be specified in the various calls for aid applications, and may be increased at the time of the decision.

The repayment period of the loan of which the aid consists is 10 years, with a 3-year grace period. The loan will be repaid in equal annual installments once the grace period ends.

Please note that, in general, and unless the calls for aid applications stipulate otherwise, the applicant must provide, upon submitting the application, a guarantee to the General Depository Agency, in cash or, alternatively, in another one of the forms provided for in the legislation. The amount of the guarantee will be 10% of the loan requested in the application unless the call in question establishes another amount.

Lastly, in 2014 calls for applications for different types of aid were issued in this area, some of which were targeted at the promotion of industrial competitiveness in certain industries (air and space, automotive, pharmaceutical, manufacturing), and others at regional reindustrialization programs (such as the Bay of Cadiz, Comarca de Lorca, Campo de Gibraltar, Canary Islands, etc.) and one call for aid applications was issued for reindustrialization in general.
4. Incentives for investment in certain regions

4. INCENTIVES FOR INVESTMENT IN CERTAIN REGIONS

4.1. Granted by the State

Regional incentives are financial subsidies granted by the State to productive investment to promote business activity in previously-determined areas, thus helping to alleviate territorial imbalances and to reinforce each region’s endogenous potential for development.

The State grants such aid in accordance with the demarcation of eligible areas and maximum aid intensities stipulated by the European Commission. The functions relating to regional incentives are attributed to the Directorate-General of Community Funds, under the Secretariat of State of Budgets and Expenses of the Ministry of the Finance and Public Administrations.

These incentives are aimed at promoting business activity and directing its location toward previously determined areas, and they consist of financial aid for the financing of investment projects to be executed in areas with the lowest level of development, or in those whose special circumstances so recommend.

The main objective of this regional policy is to achieve economic equilibrium between the different Spanish regions (measured in terms of per capita GNP). In practice, this policy involves the promotion of start-ups, expansions or modernization of investment projects undertaken by enterprises located in the less developed geographical regions and in areas experiencing particular economic difficulties.

The incentives available for grant are, in general, (i) non-returnable subsidies; (ii) subsidies for the interest on loans obtained by the beneficiary from financial institutions; (iii) subsidies for the repayment of those loans; (iv) a combination of the foregoing; (v) reductions in the employer’s social security contribution for common contingencies, etc.

They are granted for investment in projects that must be located in one of Spain’s eligible areas.

The geographic demarcation of the eligible areas and the specific definition of the maximum financing limits, as well as of the specific industry requirements regarding economic sectors, eligible investments and conditions, are regulated in the respective Royal Decrees demarcating economic development areas.

The Royal Decrees in force were prepared on the basis of the contents of the “Guidelines on National Regional Aid for 2007-2013” approved by the European Commission. However, these Guidelines have been replaced by the “Guidelines on regional State aid for 2014-2020” published on July 23, 2013 in the Official Journal of the European Union (OJEU). Similarly, within the framework of the Guidelines, the European Commission approves an aid map for each Member State, stipulating the maximum limit of financial aid or subsidies that can be received by each region under regional incentives during the reference period. The new “Regional Aid Map for Spain (2014-2020)” was approved by the Commission on May 21, 2014. According to the Map, the Spanish regions for which the greatest incentives are envisaged are the Autonomous Communities of Extremadura and the
4. Incentives for investment in certain regions

Canary Islands, with maximum aid intensity percentages of up to 25% and 35%, respectively, of the eligible investment.

On the other hand, the maximum aid intensity percentage for those regions designated as “a” areas for the period 2011-2013 (Andalucía, Castilla-La Mancha and Galicia), has been reduced to 15% of the eligible investment for the sub-period 2014-2017, and to 10% for the sub-period 2018-2020. Attention is drawn, however, to the provinces of Soria and Teruel and the Autonomous Cities of Ceuta and Melilla, for which the grant of aid of up to a maximum intensity of 15% of the net eligible investment is permitted through to December 31, 2020.

In any case, during this period the Autonomous Community of Madrid, the Basque Country, Navarra, La Rioja, Cataluña and the Balearic Islands and the municipality of the provincial capital of Valencia continue to be regarded as regions ineligible for subsidies, pursuant to the state legislation on regional incentives.

The replacement of the “Guidelines on National Regional Aid for 2007-2013” with the Guidelines applicable for the new period 2014-2020, and the approval of the new regional aid Map, mean that the Royal Decrees currently in force which demarcate the eligible areas need to be amended accordingly. According to the information provided by the Sub-directorate General of Community Funds, the new Real Decrees are currently being prepared and are expected to be approved and published during the first half of 2015.

Notwithstanding the foregoing, the main characteristics of the regional incentives have so far been as follows:
4. Incentives for investment in certain regions

4.1.1. Eligible economic sectors

These are stipulated in each Royal Decree demarcating the respective geographical area, and this aspect will therefore depend on the final provisions of the Royal Decrees which are currently being drafted.

The main eligible sectors, however, notwithstanding what is established in the definition under each Royal Decree of demarcation, are as follows:

- Extractive and processing industries, particularly those which apply advanced technology or use renewable energies.
- Agrofood and aquaculture industries, and the processing and preservation of fish products.
- Industrial support services and those which significantly enhance trade networks.
- Specific tourist facilities with an impact on development in the area.

4.1.2. Types of eligible investments

The types of investment eligible for incentives are new or first-time use tangible fixed assets, referring to the following investment items:

- Civil engineering.
- Capital equipment, excluding external transportation items.
- Prior viability studies.
- Other items, on an exceptional basis.

The Regulations implementing the Regional Incentives Law in line with the criteria set out at the time in the Regional Guidelines (2007-2013) eliminate the possibility of including lands as an eligible fixed asset.

4.1.3. Eligible projects

- Definition
  - Projects for the creation of new establishments that give rise to the commencement of a business activity and also generate new jobs, which must be maintained for at least two years after the end of the term stipulated in the Individual Resolution granting the aid.
  - Project for the expansion of existing activities with a significant increase in production capacity or commencement of new activities in the same establishment which entails the creation of new jobs and the maintenance of existing jobs during the same period stipulated in the preceding paragraph.
4. Incentives for investment in certain regions

— Project for the modernization of the business which meet the following requirements:

  ■ The investment must be an important part of the tangible fixed assets of the establishment being modernized and must entail the acquisition of technologically advanced machinery which produces a notable increase in productivity.

  ■ The investment must give rise to the diversification of an establishment’s production in order to attend to new and additional product markets or must entail a fundamental transformation of the overall production process of an existing establishment.

  ■ Existing jobs must be maintained during the aforesaid periods.

Replacement investments consisting of the technological updating of a machine outfit which has already been depreciated, implying no fundamental change to the product or production process, are excluded.

• Requirements

  — The project must relate to an eligible sector and activity and be located in one of the designated areas.

  — It must be technically, economically, and financially viable.

  — Generally, at least 25% of the investment must be equity-financed. However, depending on the features of the project, a higher rate may be required in the Royal Decrees of demarcation.

  — The application for regional incentives must be submitted before the investment in question begins to be made.

  — In particular, the investment cannot be initiated before receiving written confirmation from the relevant agency of the appropriate Autonomous Community that the project is “at first glance” capable of being deemed eligible.

  — Investments in fixed assets must be made in new or first-use fixed assets.

4.1.4. Types of incentive

The regional incentives available for grant consist of:

a) Non-returnable subsidies for the approved investment.

b) Subsidies for the interest on loans obtained by the beneficiary from financial institutions.

c) Subsidies for the repayment of those loans.

d) Any combination of the foregoing.
4. Incentives for investment in certain regions

e) Reductions in the employer’s social security contribution for common contingencies during a maximum number of years, to be determined by regulation, subject to the provisions of the legislation on incentives for hiring and for fostering employment.

In the cases under letters b), c) and d) above, there is also a possibility of regional incentives being converted into a percentage of the subsidy on the approved investment.

4.1.5. Project assessment

Projects must be evaluated using the methods stipulated in each Royal Decree of demarcation, which will also determine the percentage of subsidy to be granted for each project. Notwithstanding the specific provisions of each Royal Decree, the main parameters to date considered by the relevant bodies are as follows:

- Total amount of the eligible investment.
- Number of jobs created.
- Contribution to the area’s economic development and use of its production factors.
- Added value of the project (if newly created) or increase in productivity in other cases.
- Use of advanced technology.
- Location.

4.1.6. Compatibility of different incentives

No investment project can receive other financial aid if the amount of the aid granted exceeds the maximum limits on aid stipulated for each approved investment in the Royal Decrees of demarcation of eligible areas.

Therefore, the subsidy received is compatible with other aid, provided that the sum of all the aid obtained does not exceed the limit established by the Royal Decree of demarcation and EU rules do not preclude it (incompatibilities between Structural Funds).

4.1.7. Application procedure

- Documentation
  - Standardized application form addressed to the Ministry of Finance and Public Administrations.
  - Documentary evidence of the applicant’s personal circumstances or, in the case of an incorporated company, its registry data. If the company is in the process of being incorporated, the draft bylaws and the data of the developer acting in its name.
4. Incentives for investment in certain regions

— Standardized explanatory investment project memorandum, together with documentation evidencing compliance with all environmental requirements.

— Formal declaration of other aid applied for or obtained by the applicant for the same project.

— Evidence of the company’s compliance, as of the date in question, with its tax and social security obligations or, as the case may be, authorization from the Directorate-General of Community Funds to obtain the certificates to be issued by the State Tax Agency and by the Social Security General Treasury. In the case of a company being incorporated, the obligation will be deemed to refer to the developer.

• Where to submit
The appropriate body of the Autonomous Community where the project is to be carried out.

• Granting agency
The Government Delegate Committee for Economic Affairs if the eligible investment exceeds €15,000,000.

In all other cases the Ministry of Finance and Public Administrations (in particular, through the Sub-directorate General of Regional Incentives, under the Directorate-General of Community Funds).

• Decision deadline
The maximum deadline for deciding on applications and serving notice thereof is 6 months from the date on which the application is registered with the Ministry of Finance and Public Administrations (although this deadline may be extended).

If the initial term and, as the case may be, any extended term ends without a decision have been issued, the aid application may be deemed to have been rejected.

• Acceptance of the grant of aid
Express notice of acceptance of the aid must be served by applicants on the relevant agency of the Autonomous Community, within the first 15 business days after the date on which notice of the decision to grant the aid is received.

If no notice is served by the end of such period, the grant of aid will be rendered null and void and the dossier will be shelved.

• Submission of decisions at the Mercantile Registry
If notice of acceptance is served, the beneficiary must file the decision granting the aid with the Mercantile Registry within one month from the date of acceptance.
All decisions subsequent to the grant of incentives (extensions, amendments, etc.) must also be filed by the same deadline.

In general, compliance with this requirement must be evidenced to the relevant Autonomous Community agency within four months after acceptance of the related decision. If evidence is not submitted by the deadline, the Directorate-General of Community Funds will render null and void the grant of aid not filed with the Mercantile Registry.

4.1.8. Execution of the project and alterations subsequent to grant

Investments may be initiated without having to wait for the final decision to be adopted, provided that applicants can prove that such investments were not initiated before the relevant Autonomous Community agency had confirmed in writing that the project was “at first glance” capable of being deemed eligible based on the general conditions with regard to location and productiveness of the investment.

It is also possible for associated investment and subsidy calendars to be stipulated with the relevant agencies for applications in which the amount of the subsidy exceeds €5 million.

In general, subsequent incidents in the project (i.e., alteration of the initial project, change in the locating of the project, etc.) will be resolved by the Directorate-General of Community Funds.

Applications for alteration of the projects must be submitted to the relevant Autonomous Community agency and addressed to the Ministry of Finance and Public Authorities, and must specify the conditions which have been altered since the filing of the initial application. The deadline for deciding on applications and serving notice thereof will be six months following their receipt by the Directorate-General of Community Funds.

4.1.9. Payment procedure

Following issue of a report confirming the degree of compliance with the requirements imposed by the relevant agency on the project in question, the beneficiary must file a request for payment of the subsidy at the relevant Autonomous Community agency from which it will be referred to the Directorate-General of Community Funds.

4.1.10. Payment system

Subsidies may be paid using the following methods:

- Final payment: after the end of the term, the beneficiary may only request payment in full of the subsidy granted or to which he is entitled if there have been cases of breach.

- Payment in full: during the term, the beneficiary may only request a single payment of the total subsidy after the entire investment has been made and subject to the submission of the related bank guarantee. This payment may only be requested subsequent to the dates of compliance and
4. Incentives for investment in certain regions

verification of each and every one of the conditions imposed on the holder and prior to the end of the term.

- Payment in part: during the term, the beneficiary may request partial payments of the subsidy as he justifies the partial making of the investment, provided that this is authorized in the individual decision to grant the subsidy.

For more information, please consult the website of the Ministry of Economy and Competitiveness (www.mineco.gob.es).

4.2. Regional Aid granted by the Autonomous Communities

Some Spanish Autonomous Communities also provide similar incentives, on a smaller scale, for investments made in their regions. Only some of these incentives are compatible with EU and State regional incentives. Specifically, if State regional incentives have been applied for in connection with a given project, the limits established in each Royal Decree of demarcation must be taken into account.

In fact, some Autonomous Communities grant investment incentives in areas not covered by state legislation but which are included in EU regional financial aid maps.

Most Autonomous Community incentives are granted on an annual basis, although the general conditions of the incentives do not usually change from year to year.

In view of the impossibility of including a detailed description of the aid granted by each Autonomous Community, we summarize below their main and traditional features (which are generally very similar to those of State regional incentives).

Nonetheless, bear in mind that the incentives granted by the Autonomous Communities have also been affected by the content of the new Guidelines on regional State aid and by the limits and maximum aid intensity percentages established in the new Regional Aid Map (2014-2020), and the regulation of these incentives will therefore need to be adapted to the new framework established.

4.2.1. Types of project

Opening of new establishments, expansion of activities, modernization and technological innovation. The creation of new jobs is normally required.

4.2.2. Main industries

In general, the main eligible industries are agriculture and forestry, arts and crafts, fishing, industrial support services, processing industries, tourism, culture, industrial design, electronics and computing, renewable and environmental energies.

4.2.3. Project requirements

They are basically the same as those imposed at State level.
4. Incentives for investment in certain regions

4.2.4. Types of incentive

The main incentives are:

• Nonrefundable subsidies.

• Special conditions for loans and credit.

• Technical counseling and training courses.

• Tax incentives.

• Guarantees.

• Social security relief.

4.3. Special reference to investments in the Canary Islands

The Canary Islands Autonomous Community has traditionally enjoyed a regime of commercial freedom involving less indirect tax pressure and exclusion from the sphere of certain State monopolies. These conditions have given rise to an economic and tax system which is different from that existing in the rest of Spain.

Of course, an attempt has been made to reconcile these special circumstances with the requirements of Spanish membership of the European Union.

In this regard, the Central Government has been increasing flexibility as much as possible in connection with the functioning of regional incentives and localization of investments on the Canary Islands, imposing no further limitations than those stipulated in EU legislation and giving preferential treatment to investments in the peripheral islands by requiring a minimum level of investment lower than that established for the rest of Spain.

These efforts led the European Commission to authorize the creation of the Canary Islands Special Zone (Zona Especial Canaria or “ZEC”) in January 2000, with a view to attracting and encouraging the investment in the Canary Islands of international capital and companies which make a decided contribution to the economic and social progress of the Canary Islands. Use of the benefits of the ZEC is currently in force through December 31, 2026, and may be extended when authorized by the European Commission (please also see Chapter 3 and www.zec.org).

It is important to note that incentives aimed at upgrading and modernizing the banana and tomato growing and fishing-related industries are also available.

Along these same lines, please note the approval of the Integral Strategy for the Canary Islands Autonomous Community by decision of the Council of Ministers dated October 9, 2009, the main objectives of which were implemented in Additional Provision Fourteen of the Sustainable Economy Law as a guide for initiatives of the Government and of the General State Administration.
4. Incentives for investment in certain regions

on the Canary Islands. In particular, priority is to be given to initiatives connected with the policy to internationalize the Canary Island economy, renewable energies, ground, airport and port infrastructures, subsidies for goods transport to or from the Canary Islands, the fostering of tourism and the contribution to the development of industrial sectors and of telecommunications on the Canary Islands.

In particular, from the standpoint of internationalization, the Sociedad Canaria de Fomento Económico, S.A. (PROEXCA) was formed with a view to fostering the internationalization of the Canary Island enterprise and attracting strategic investments to the Islands. PROEXCA acts as an official agent for the promotion of investments on a regional scale, serving companies which seek to invest in the Islands and which offer them high added value and sustainability.
5. Aid for innovative SMEs

5. AID FOR INNOVATIVE SMES

Notwithstanding the special treatment usually given to SMEs in the context of the public financing programs or initiatives examined in other sections of this chapter, the following is a list, to be taken as an example, of some lines specifically targeted at this type of entity when developing innovative activities. In particular, it is worth mentioning two programs promoted by the National Innovation Enterprise (Empresa Nacional de Innovación or ENISA), which provides financing to SMEs through various lines targeted at the formation of enterprises, the corporate growth and the consolidation of enterprises.

As an example, and notwithstanding the specific conditions for 2015 which, as of the date of preparation of this Chapter, have yet to be approved by the Ministry of Industry, Energy and Tourism, the following are the main characteristics of some of the lines of financing currently granted by ENISA.

- **Line for young entrepreneurs:** aimed at stimulating the formation of enterprises backed by young entrepreneurs (not older than 40 years of age), to which is provided access to preferred financing with the sole guarantee of their business project.

  Potential beneficiaries are SMEs (i) which pursue their activity, have their registered office and make the investment in Spain; (ii) which are incorporated as a corporate enterprise or, if already incorporated, whose incorporation took place not more than 24 months prior to the submission of the application; (iii) whose business model is innovative or has obvious competitive advantages; (iv) which evidence the technical/economic viability of the project; (v) whose financial statements for the last year ended were filed with the Commercial Registry; and (vi) which are active in any area of activity other than real estate and finance, and minimum contributions are required from shareholders (of at least 50%), in the form of capital, depending on the amount of the loan.

  Eligible investments are those required by the business project in the initial phase.

  Aid will take the form of a participating loan of not less than €25,000 and not more than €75,000, with an applicable interest rate equal to EURIBOR plus 3.25% in the first tranche and, in the second tranche up to 4.5%, depending on the financial return of the enterprise, repayable in a maximum of 4 years, with a grace period of not more than 1 year for the repayment of principal.

- **ENISA Entrepreneurs:** aimed at providing financial support to recently formed SMEs, promoted by entrepreneurs of any age, so that they are able to make the investments necessary for carrying out their business project.

  Potential beneficiaries are SMEs (i) which pursue their activity and have their registered office in Spain; (ii) which are incorporated as a corporate enterprise not more than 24 months before the application is filed; (iii) whose business model is innovative or has competitive advantages;
5. Aid for innovative SMEs

(iv) whose shareholders’ contributions are equal to at least the amount of the loan; (v) whose financial statements for the last year ended were filed with the Commercial Registry and which have a balanced financial structure, (vi) which have co-financing for the financial needs associated with the business project; and (vii) which are active in any area of activity other than real estate and finance.

This aid will take the form of a participating loan of not less than €25,000 and not more than €300,000, at an applicable fixed interest rate equal to EURIBOR plus 2.5% in the first tranche and, in the second tranche, up to an additional 8%, repayable in a maximum of 6 years, with a 2-year grace period for the repayment of principal (but not for the payment of interest).

- **ENISA Competitiveness**: aimed at financing projects promoted by SMEs based on viable, profitable and proven business models, focused on (i) the competitive improvement of production systems and/or a change in production model; or (ii) expansion through an increase in production capacity, an increase in the range of products/services, diversification of markets...

  The same requirements imposed on the preceding line must also be met in this case. The participating loans granted under this line will range between €25,000 and €1,500,000, repayable in a maximum of 9 years, with a grace period of not more than 7 years for the repayment of the principal, at an interest rate equal to Euribor + 3.75%, in the first tranche, and up to an additional 8% for the second tranche.

- **ENISA Alternative Markets**: aimed at financing consolidation, growth and internationalization projects which seek capitalization and/or indebtedness through a regulated market, such as the Alternative Stock Market (MAB) and the Alternative Fixed-Income Market (MARF).

  Beneficiaries of this type of loan must: (i) be an SME formed as a corporate enterprise; (ii) pursue their activity and have their registered office in Spain, (iii) have a business model that is innovative or with competitive advantages, (iv) pursue an activity in any industry other than real estate and finance; (v) evidence the technical and economic viability of the business project; (vi) evidence the professional nature of the management and a balanced financial structure; (vii) have audited financial statements for the last year ended; (ix) have co-financing for the financial needs associated with the business project; and (x) have equity at least equal to the amount of the loan applied for.

  The amount of the loan will be not less than €300,000 and not more than €1,500,000, having regard to, inter alia, the level of equity and the financial structure, repayable in a maximum of 9 years, at an interest rate equal to EURIBOR + 3.75% in the first tranche, and up to an additional 8% in the second tranche, with a grace period not more than 7 years for the repayment of the principal.
5. Aid for innovative SMEs

- **ENISA Mergers and Acquisitions:** aimed at financing business projects which contemplate a corporate transaction entailing obvious competitive advantages (growth in size and improvement of products and services).

  The requirements are similar to those described under the preceding line.

  The amount of the participating loans will be not less than €300,000 and not more than €1,500,000, repayable in a maximum of 9 years at an interest rate of EURIBOR + 3.75%, in the first tranche, and up to an additional 8% in the second tranche, according to the enterprise’s profitability, with a grace period of not more than 7 years for the repayment of the principal.

- **ENISA Aeronautics:** Aimed at providing financial support to companies in the aeronautics & aerospace industry and ancillary or related sectors that carry out business projects that lead to a technological advance in the obtainment of new products, processes or services or a substantial improvement of existing products, processes or services.

  The requirements are similar to those described for the above lines. Participating loans will be for a minimum of €25,000 and a maximum of €1,500,000, with a maximum repayment term of 12 years and interest will be charged at a rate of Euribor + 3.75% for the first tranche, and up to an additional 6% in the second tranche, according to the rating, and with a maximum deferral period for repayment of the principal of 10 years.
6. Preferred financing of the Official Credit Institute  
(*Instituto de Crédito Oficial* or ICO)

**6. PREFERRED FINANCING OF THE OFFICIAL CREDIT INSTITUTE  
(*INSTITUTO DE CRÉDITO OFICIAL OR ICO*)**

Consistent with its objective to contribute to economic growth and to the improvement of the distribution of national wealth, the ICO cooperates with other national and international bodies and institutions which work for the benefit of industries which, given their social, cultural, innovative or ecological significance, merit priority attention.

Thus, for a number of years the ICO has been executing multilateral institutional and/or financial cooperation agreements with similar bodies, Autonomous Communities, ministries and financial institutions with a view to helping Spanish enterprises start up new investment projects.

Notwithstanding other lines intended for certain specific sectors, the following are the main ICO lines of financing for 2015: (i) Enterprises and Entrepreneurs, (ii) Mutual Guarantee Society Guarantee/State-owned Agricultural Surety Corporation, (iii) Corporate Promissory Notes and Bonds, (iv) Exporters 2015, (v) International Tranche I “Investment and liquidity”, and (iv) International Tranche II “Medium and Long-term Exporters”, whose most notable characteristics are:

- **Línea ICO Empresas y Emprendedores 2015** (ICO Enterprises and Entrepreneurs Line):

  Independent professionals and public and private enterprises —both Spanish and foreign— who make productive investments in Spain and/or need to cover their liquidity needs may apply for these loans.

  Transactions are processed directly via credit institutions with which the ICO has executed a cooperation agreement for the implementation of this line.

  The loans may be used to finance:

  a) Liquidity: Working capital needs such as current expenses, payroll, payments to suppliers, purchase of goods, etc.

  b) Productive investments within Spain:

    - New or second-hand productive fixed assets (including VAT).
    - Cars whose price does not exceed €30,000 plus VAT. Industrial vehicles may be financed 100%.
    - Acquisition of enterprises.
    - Value added tax (VAT) or Canary Islands general indirect tax (IGIC).
    - Liquidity with a limit of 50% of the financing obtained for this form of investment.
6. Preferred financing of the Official Credit Institute (Instituto de Crédito Oficial or ICO)

- Renovation or refurbishment of buildings, common elements and dwellings (including VAT or similar taxes) in the case of community associations, groupings of community associations and individuals.

The maximum amount that can be applied for is €12.5 million, in one or more transactions per client per year. Where used to finance “Investment”, it can be requested in the form of a loan or leasing arrangement, and where it is used to finance “Liquidity”, it will be requested in the form of a loan.

Investments made prior to the execution of the operation can be financed, provided that their commencement date is not before January 1, 2014. As from the execution of the operation, the client has a one-year period in which to make the investment which is being financed.

Regarding the applicable interest rate, the client can choose between a fixed or variable rate:

- For 1-year forward transactions: fixed or variable interest rate plus a 2.30% margin.
- For 2- and 3- or 4-year forward transactions: fixed or variable interest rate, plus a 4.00% margin.
- For forward transactions of more than 4 years: fixed or variable interest rate plus a margin of up to 4.30%.

The repayment period will be of 1, 2, 3 and 4 years, with the possibility of a 1 year grace period, if 100% is used to finance “Liquidity”, and of 1, 2, 3, 4, 5, 7, 10, 12, 15 and 20, with a grace period of up to 2 years, if used to finance “Investment”. And for transactions relating to “Investment” and “Liquidity”, any of the repayment periods for “Investment” may be chosen.

Lastly, entities will not charge any fees except for the one relating to early repayment (voluntary or mandatory).


  Independent professionals, public and private enterprises and entities that have a guarantee or surety from a Mutual Guarantee Society or the State-owned Agricultural Surety Corporation regardless of their tax domicile, and who make productive investments inside or outside Spain or who wish to cover their liquidity needs can apply for these loans. However, an entity applying for financing to make an investment outside Spain must have Spanish nationality or a majority of Spanish capital stock.

  These transactions are processed directly through credit institutions, at Mutual Guarantee Societies or at the State-owned Agricultural Surety Corporation.
6. Preferred financing of the Official Credit Institute
(Instituto de Crédito Oficial or ICO)

Loans may be used to finance:

a) Liquidity: Working capital needs such as operating expenses, payroll, payments to suppliers, purchase of goods, etc.

b) Productive investments inside and outside Spain:
   - New or second-hand productive fixed assets (including VAT).
   - Cars whose price does not exceed €30,000 plus VAT. Industrial vehicles may be financed 100%.
   - Acquisition of enterprises.
   - Formation of enterprises abroad.
   - VAT or taxes of an analogous nature.
   - Liquidity up to a limit of 50% of the financing obtained for this form of investment.

Investments made before the execution date of the transaction can be financed, provided that the commencement date is not before January 1, 2014.

The maximum amount that can be applied for is €2 million, in one or more transactions per client and year. Where the financing is intended for “Investment”, it may be requested in the form of a loan or leasing arrangement and can finance up to 100% of the project, and where it is intended for “Liquidity”, it may be requested in the form of a loan.

The Mutual Guarantee Society/State-owned Agricultural Surety Corporation may decide the amount of the transaction to be guaranteed, which may be up to 100%.

As regards the applicable interest rate, the client may choose between a fixed or variable rate, plus the margin stipulated according to the repayment period and the form of the guarantee required (+2.3%, +4% and +4.3%, respectively, for transactions equal to 1 year, equal to 2, 3 and 4 years or equal to more than 4 years). The repayment period and grace period will be stipulated according to the use of the financing: 1, 2, 3 or 4 years with the possibility of a 1-year grace period if 100% is financed under a “Liquidity” transaction, and 1, 2, 3, 4, 5, 7, 10, 12 and 15 years, with the possibility of a grace period of up to 2 years, for financing under an “Investment” transaction. For loans used to finance “Investment” and “Liquidity”, any of the repayment periods stipulated for “Investment” may be chosen.

Lastly, the Mutual Guarantee Society/State-owned Agricultural Surety Corporation or the credit institution, as the case may be, will charge an application fee equal to 0.5% of the amount executed. Additionally, the Mutual Guarantee Society/State-owned Agricultural Surety Corporation will charge a fee based on the amount guaranteed and up to 4% in respect of a mutual society fee.

In the case of voluntary early repayment, a cancellation fee (generally 2.50% of the amount cancelled) will be charged when the remaining life of the operation is more than one year, the
6. Preferred financing of the Official Credit Institute

(Instituto de Crédito Oficial or ICO)

fee being 2% when the remaining life is one year or less). If the early repayment is mandatory, the penalty accruing is 3.00% of the amount cancelled.

• **Línea ICO Pagarés y Bonos de Empresas 2015** (ICO 2015 Corporate Promissory Notes and Bonds Line)

This ICO line is aimed at Spanish companies that issue on the primary market promissory notes and/or bonds admitted to trading on organized markets or on multilateral trading facilities in Spain. However, companies that are traded on the Ibex 35 and companies of the group are excluded.

The transactions are processed directly through credit institutions, who will acquire the promissory notes and bonds issued by the Spanish companies and admitted to trading on organized markets.

Bond and/or promissory note issues, in one or more transactions, may be financed up to 100% in an amount not to exceed €50 million per client and issue.

The client issuing the promissory notes or bonds and the credit institution will agree on the conditions of the financing instruments and the promissory notes/bonds will have a maturity of up to 10 years.

Acquisitions of promissory notes/bonds by a credit institution can be executed up to December 15, 2014.

• Lastly, given its purpose, the ICO 2015 International, Tranche I “Investment and Liquidity” Line and the lines relating to Exporters 2015 and International 2015 Tranche II “Medium and Long term Exporters” will be examined in section 7 below, on “Internationalization Incentives”.

For more information in this connection, please see the ICO website: www.ico.es.
7. Internationalization incentives

7. INTERNATIONALIZATION INCENTIVES

Although it is not the aim of this publication to address incentives for Spanish investment abroad, this section is included in view of the obvious interest that Spanish investment abroad has sparked in foreign investors as a platform for international expansion.

In this context, please note that the official financial instruments approved by the Spanish government to provide official support for the internationalization of business are:

- FIEM (enterprise internationalization fund, managed by the Ministry of Economy and Competitiveness through the Office of the Secretary of State for Trade).
- FIEX (fund for investments abroad, managed by COFIDES).
- FONPYME (operating fund for SME investments abroad, managed by COFIDES).
- FINTEC (line of financing for investments in the electronics and the Information and communication technologies industry, managed by COFIDES).
- FINCONCES (line of financing for investments in the infrastructure concession industry, managed by COFIDES).
- Country Lines (managed by COFIDES).
- Agreements for the conversion of debt into investment.
- PROINVEX (program for major investments abroad, managed by the ICO).
- The Internationalization Line of the ICO and support for Exports of the ICO and of the Ministry of Finance and Public Authorities.
- Emprendetur Internationalization (included within the framework of the Integral National Tourism Plan).

Of all the foregoing financial instruments, particular regard must be had to the FIEM, the FIEX and the FONPYME, as well as to the lines of financing for investments in the electronics and information and communication technologies industry, or in the infrastructure concession industry and, lastly, the “Línea ICO-Internacional 2014” (2014 ICO International Line) and the “Línea Exportadores a Corto, Medio y Largo plazo” (Short-, Medium- and Long-term Exporters Line).
7. Internationalization incentives

1. **FIEM**

   The FIEM is an instrument intended for the direct financing of international contracts for the supply of goods and services or the execution of projects undertaken by Spanish companies in order to support direct investment by Spanish companies abroad.

   The FIEM finances (i) transactions and projects of special interest to the strategy to internationalize the Spanish economy; (ii) the technical assistance required by such transactions and projects and (iii) technical assistance and consultancy services of special interest to the internationalization strategy, the objective of which is the preparation of viability, feasibility and pre-feasibility studies, studies related to the modernization of economic sectors or regions, and consulting services aimed at institutional modernization of an economic nature.

   In this connection, a transaction or project, technical assistance or consultancy service is deemed to be of special interest to the internationalization strategy where (i) it promotes the internationalization of Spanish SMEs; (ii) it entails the direct investment or exportation of goods and services of Spanish source and manufacture in a sufficiently significant percentage of the financing or (iii) otherwise, where there are circumstances justifying the interest.

   In any case, the following will not be financed (i) exports of defense, paramilitary and police materials to be used by the armed forces, police forces and security forces or the anti-terrorist services or (ii) projects related to certain basic social services such as education, health and nutrition.

   Potential recipients of this aid are foreign central governments and foreign public, regional, provincial and local authorities, as well as enterprises, groupings and consortiums of foreign publicly-owned and private enterprises, not only from developed countries but also from developing countries.

   In exceptional cases, FIEM aid may be granted to international organizations, provided that there is a clear commercial interest, from the point of view of internationalization of the Spanish economy, in the corresponding contribution.

2. **FIEX**

   The purpose of the FIEX is to foster the internationalization and business activities of Spanish companies and, in general, the Spanish economy, through short-term and minority interests in the equity of companies located outside Spain, specifically through holdings in the capital (equity) or quasi-equity instruments (coinvestment loans, etc.).

   The maximum amount of the financing is €30 million subject to a minimum amount of €250,000.

3. **FONPYME**

   The FONPYME is intended to finance short-term and minority investments in the equity of SMEs located outside Spain. The projects must have some type of Spanish connection or interest. The maximum amount of the financing is €5 million, with a minimum of €75,000 per transaction.
7. Internationalization incentives

Following the amendment made by Royal Decree 862/2010, if the project being funded is located in a country in which COFIDES can operate, the Fund’s participation may be instrumented, if so approved by the Company’s Board of Directors and the Fund’s Executive Committee, through joint financing with COFIDES, using identical or differing financial instruments. Under the joint financing arrangement, different remuneration schemes can be established for each of the support instruments. The percentage of the COFIDES funding in transactions funded with FONPYME will be decided on a case by case basis by its Board of Directors.

4. FINTEC

This instrument is aimed at funding, on the medium- and long-term, private and viable projects for investment abroad undertaken by enterprises in the electronics and the information and communication technologies industry in which there is a Spanish interest. The activities at which this line is targeted are those which require, due to enterprise’s international expansion, a permanent establishment to be set up in the country in which the investment is made, whether through new production or commercial facilities, the expansion of existing facilities or the acquisition of foreign enterprises in the same industry (i.e. consumer electronics, electronic components, telecommunication industries, digital contents, etc.).

The financial support will take the form of (i) holdings in capital; (ii) instruments similar to quasi-capital; (iii) ordinary loans to the Spanish enterprise; (iv) ordinary loans to the project enterprise and (v) multi-project loans.

The maximum financing provided is €30 million and cannot exceed 50% of the long-term needs of the project, up to the limit of the contribution made by the backer, the minimum amount being €250,000.

5. FINCONCES

This line is used to fund projects for investment abroad in concessions of infrastructures and public services owned mostly by Spanish enterprises, under concession or under a public-private partnership (PPP).

Eligible for this funding are projects under concession aimed at, inter alia, the design, construction, operation, maintenance, management and exploitation of a public good or service, the performance of which requires the incorporation of long-term financial resources (i.e. infrastructure for transportation, water and waste, energy, services management, telecommunications).

The financial support may be given in the form of holdings in capital or instruments similar to quasi-capital.

The maximum financing is €30 million and cannot exceed 50% of the long-term needs of the project, up to the limit of the contribution made by the backer, the minimum limit being €1 million.
6. “Country Lines” offer financing for investment projects in specific international areas with special characteristics: US Line, India Line, EU Expansion Countries Line, Mexico Line, China Line, Brazil Line, Morocco Line, Sub-Sahara Africa Line, Russia Line, Australia Line, Indonesia Line, Singapore Line, South Africa Line and Golf Cooperation Council Countries Line, of which the following are most notable:

— **US Line**: aimed at providing financial support to viable private projects with a Spanish interest performed in the US, independent of the activity with which they are connected, although priority will be given to the following industries: (i) infrastructures; (ii) renewable energies; (iii) environment; (iv) biotechnology and (v) information technology.

— **Brazil Line**: aimed at providing financial support to viable private projects with a Spanish interest performed in Brazil, independent of the activity with which they are connected, although priority will be given to the following industries: (i) capital goods, (ii) automobile parts, (iii) renewable energies, (iv) transport infrastructures, (v) environment and clean-up, (vi) transmission of electricity, and (vii) tourism.

— **China Line**: aimed at providing financial support to viable private projects with a Spanish interest performed in China, independent of the activity with which they are connected, although priority will be given to infrastructures and public services industry, which includes: (i) renewable energies and cogeneration, (ii) transport and telecommunications infrastructures, (iii) environment and waste treatment, (iv) platforms of logistics services, (v) water purification and treatment.

In all three lines the financial support is to be instrumented through holdings in capital, subordinate loans, participating loans and joint investment loans.

Maximum financing is €30 million and cannot exceed 70% (FIEX) and 80% (FONPYME) of the volume of the investment in the project, although for holdings in capital, the limit will be up to 49% of the enterprise’s capital stock. The minimum amount is €75,000.

The budget for 2014 was €60 million for the US Line, €90 million for the Brazil Line and €55 million for the China Line.


“Línea ICO-Internacional 2015” is aimed at Spanish independent professionals and publicly-owned and private entities (i.e., not only enterprises with registered office in Spain but also those in which, despite having their registered office abroad, the majority of the capital stock is Spanish, foundations, NGO’s, public authorities) which carry out investment projects abroad. It will be in force until December 12, 2015.
7. Internationalization incentives

The loans granted under this line may be used to finance operating expenses (payroll, payments to suppliers, purchases of goods) or certain production-related investments outside national territory:

a) New or second-hand productive fixed assets.

b) Acquisition of vehicles, whose price does not exceed €30,000 (plus VAT). Industrial vehicles may be financed 100%.

c) Acquisition of companies.

d) Value added tax (VAT) or analogous taxes levied in Spain in the case of the assets acquired, and assessed as borne in Spain in the VAT return to the Spanish tax authorities.

e) Liquidity up to the limit of 50% of the financing.

The investment must not have been made prior to January 1, 2014 and must be made within not more than one year after the execution of the financing.

The maximum financing is €12.5 million or its equivalent in US dollars (USD) per customer per year, in one or more transactions. If the financing is used for “Investment”, it may be requested in the form of a loan or leasing arrangement, and where it is for “Liquidity”, it will be requested in the form of a loan.

Depending on the eligible item, entrepreneurs may choose their repayment deadlines and grace periods for the principal from the following options:

a) 100% liquidity:

- 1 year with no grace period or with a 1-year grace period for the repayment of the principal.
- 2 years with no grace period or with a 1-year grace period for the repayment of the principal.
- 3 years with no grace period or with a 1-year grace period for the repayment of the principal.
- 4 years with no grace period or with a 1-year grace period for the repayment of the principal.

b) Investment:

- 1 year with no grace period or with a 1-year grace period for the repayment of the principal.
- 2 years with no grace period or with a 1-year grace period for the repayment of the principal.
- 3 years with no grace period or with a 1-year grace period for the repayment of the principal.
- 4 years with no grace period or with a 1-year grace period for the repayment of the principal.
- 5 years with no grace period or with a 1-year grace period for the repayment of the principal.
- 7 years with no grace period or with a 1-year grace period for the repayment of the principal.
7. Internationalization incentives

- 10 years with no grace period or with a 1-year grace period for the repayment of the principal.
- 12 years with no grace period or with a 2-year grace period for the repayment of the principal.
- 15 years, with no grace period or with a 2-year grace period on the repayment of the principal.
- 20 years with no grace period or with a 2-year grace period for the repayment of the principal.

Where loans are made for “Investment” and “Liquidity”, any of the repayment periods listed for “Investment” may be chosen.

For the financing, the entrepreneur may opt between a fixed or variable interest rate in the currency in which the transaction has been executed, having regard to the term of the transactions: (i) if the transactions have a term of 1 year, interest will be either fixed or variable (euro or US dollar), plus a margin of up to 2.30%; (ii) if the transactions have a term of 2, 3 and 4 years, interest will be fixed or variable (euro or US dollar) plus a margin of up to 4.00%; (iii) if the transactions have a term of more than 4 years, interest will be either fixed or variable (euro or US dollar) plus a margin of up to 4.30%.

This type of financing may be combined with other aid granted by the Autonomous Communities and other public institutions.

8. **Línea ICO Exportadores Corto Plazo 2015** (ICO Short Term Exporter Line):

This line of financing may be requested by independent professionals and enterprises with registered office in Spain who wish to obtain liquidity through an advance on the invoices from their export activity. In particular, the financing is limited to invoices issued within the framework of a transaction consisting of the final sale of goods and services supplied to a customer located outside Spain, payable not more than 180 days after the transaction’s execution date.

Financing is also available in the form of pre-financing of the company’s liquidity needs to cover the production and manufacturing costs of the goods to be exported. This transaction is required to be executed prior to the formalization of the transaction consisting of an advance on invoices relating to the goods which were pre-financed.

The interest rate applied to the customer will be variable (reviewable six-monthly) plus a margin of up to 2.30%. The dates and method of payment of the interest will be agreed between the credit institution and the customer, according to the type of agreement entered into.

In both cases, up to 100% of the amount of the invoice or up to 100% of the amount from the sale of the goods will be financed, provided that it does not exceed a maximum of €12.5 million per customer and year, in one or more transactions.

Lastly, it should be mentioned that the credit institution will not charge any fee to the customer, except in cases of mandatory repayment, upon which a penalty equal to 1.50% of the amount cancelled will accrue. Transactions may be executed until December 12, 2015.
7. Internationalization incentives

9. Línea ICO Internacional Tramo II “Exportadores Medio y Largo Plazo” (ICO International Tranche II “Medium- and Long-Term Exporters Line”):

This financing may be requested by: (i) enterprises with registered office in Spain, for the sale of goods or services, with deferred payment, to enterprises with registered office outside Spain; and (ii) enterprises with registered office outside Spain for the acquisition of goods or services, with deferred payment, from enterprises with registered office in Spain.

In particular, the following items are eligible for financing:

a) Supplier facility: Financing targeted at enterprises with registered office in Spain for the sale, with deferred payment, of new or second hand goods or services to enterprises with registered office outside Spain.

b) Purchaser facility: Financing targeted at enterprises with registered office outside Spain, for the acquisition, with deferred payment, of new or second hand goods or services exported by enterprises with registered office in Spain.

c) Supplementary financing: Financing required by enterprises with registered office outside Spain which acquire goods or services exported by enterprises with registered office in Spain, the full amount of which was not entirely covered by a purchaser facility.

The financing may take the form of a loan, with the possibility of multiple drawdowns and an amount of not more than €25 million, or its equivalent in US dollars (USD), per customer, in one or more transactions.

The customer may choose between a fixed or variable interest rate (euro or USD) in the currency in which the transaction is executed, as follows: (i) for forward transactions of 2, 3 and 4 years, the fixed or variable interest rate plus a margin of up to 4.00%; and (ii) for forward transactions of more than 4 years, the fixed or variable interest plus a margin of up to 4.30%.

In turn, the repayment deadline and grace period will be agreed between the customer and the credit institution, the term of the total financing not being less than 2 years or more than 12 years, including any grace period for the repayment of the principal, which cannot be more than 3 years.

Lastly, the credit institution may charge application costs or arrangement fees of up to 1% for transactions of less than 5 years and up to 1.50% for transactions of 5 or more years. Fees may also be charged for early repayment, whether voluntary or obligatory.

Transactions may be executed until December 15, 2014.

10. Emprendetur internationalization program

Finally, within the framework of the Integral National Tourism Plan (Plan Nacional Integral de Turismo or PNIT), approval has been given through Order IET 2200/2014 of November 20, 2014,
7. Internationalization incentives

to the basic regulations for the granting of aid for projects and initiatives designed to favor the internationalization of the Spanish tourism sector through the opening up of new international tourism markets, the expansion or reinforcement of those markets already in existence, or the exporting of Spanish tourism products or services to third countries.

This aid may be granted to private companies legally formed in Spain whose exports, at the time of applying, do not exceed 40% of their billings. The potential beneficiaries do not include public trading companies, public business entities or any other enterprise formed under, or regulated by, public law.

The tourism products and services which are eligible for financing are those aimed at:

— The opening up of new markets.
— The exporting of new products and services.
— Offering differentiating factors in terms of competitiveness.
— The boosting of the innovation potential of companies in the tourism sector, and of competitiveness and scientific-technological knowledge in the tourism sector.

This aid takes the form of loans financing up to 75% of the cost of the projects or initiatives, which may not exceed €1 million.

The execution of initiatives financed through loans of this type must have commenced after November 25, 2014, and is subject to a maximum execution period.
8. EU aid and incentives

8. EU AID AND INCENTIVES

Most European Union incentives (specifically loans and subsidies) generally supplement aid programs financed by the Spanish Government. Such aid is routed through the Spanish public authorities and institutions, as well as through finance entities, which act as intermediaries between the granting of aid and beneficiary. Accordingly, the related applications for subsidies must be addressed to these entities, save in the case of the direct aid under, inter alia, programs to support research, development and innovation (R&I) for which applications must be submitted in the respective calls for proposals issued by the European Commission.

The broad range of instruments at the EU’s disposal includes, most notably the following:

8.1. European Investment Bank (EIB)

Projects eligible for EIB support are basically those which promote the development of less favored regions and those of common interest to several Member States or benefiting the EU as a whole, such as environmental protection, improved use of energy resources, improved industrial competitiveness in the EU, the development of SMEs and middle capitalization enterprises (Mid-CAPs) and improved European transport and telecommunications infrastructures. Additionally, projects aiming at extending and modernizing infrastructure in the health and education sectors may also qualify for EIB support.

The EIB offers two types of loans:

8.1.1. Global loans

Global loans are similar to credit lines granted to financial institutions, which lend the funds to small or medium-scale investment projects meeting the EIB’s criteria. This is the main instrument with which the EIB supports SMEs and Mid-CAPs since, by granting loans to banks or other intermediaries, access to funding is provided indirectly to small and medium-scale business initiatives.

The loans are granted by the EIB to banks or other institutions in all the Member States, which act as intermediaries. These financial intermediaries conduct an analysis of the investment, and of the economic, technical and financial viability of each of the projects. They are responsible for granting the loans for small and medium-scale investments and for the administration of such loans.

Specifically in Spain, global loans are routed mainly through Instituto de Crédito Oficial (ICO), Banco Bilbao-Vizcaya Argentaria (BBVA), Santander, Bankinter, Sabadell, Banco Cooperativo, Kutxabank, Banca March, Laboral Kutxa, La Caixa, Unicaja, Bankia and Banco Popular. There are many different types of loans and credits, with varying maturities, amounts and interest rates, but their general terms can be summarized as follows:

- Coverage of up to 50% of the overall investment costs and, in certain cases, up to 100% of the investment with a guarantee from the intermediary bank.

- Grace period: Up to three years.
8. EU aid and incentives

— Repayment period: To be determined by the financial institution acting as intermediary and the EIB, although it tends to fluctuate between 2 and 15 years.

— Beneficiaries: Local authorities, SMEs (for these purposes, SMEs are deemed to be companies that have less than 250 workers) or MID-CAPs (which have up to 3,000 workers).

— The amount awarded under a global loan may not exceed €12.5 million.

— Free of fees and other charges, except for minor administrative expenses.

Applications must be filed with financial institutions or other intermediaries.

8.1.2. Individual loans

The EIB grants individual loans directly to investors or through financial intermediaries for projects of over €25 million.

In general, the following are the main characteristics of these loans:

— Coverage of up to 50% of the total cost of the project.

— Eligible projects are public or private investments made mainly in the infrastructure and industrial sector for a minimum amount of €25 million.

— Long-term loans, with repayment periods of between 5 and 12 years for industrial projects, and between 15 and 20 years for infrastructure projects, although the repayment period may be extended in special cases.

— Grace period: depends on the nature of the project, usually up to five years.

— In granting these loans, the EIB requires security, on which the financial terms of the loan will depend.

Applications must be filed directly with the EIB.

Once finance has been obtained, the project’s progress is monitored regularly in order to ensure that it reaches its objectives.

The EIB does not directly grant interest relief, although this may be financed by third-party institutions.

Thanks to a €10,000 million capital extension approved by the EU in 2012, the EIB considerably increased its lending activity, up to €75 billion in 2013 (37% more with respect to 2012). The projection and commitment is to maintain this trend in 2014 and 2015.

Operating scheme:
Lastly, an essential role is to be played by the EIB in starting up a new Fund, the European Fund for Strategic Investments, created by the European Commission to help meet the objective of mobilizing at least €315 billion in new investments during the 2015-2017 period.

8.2. European Investment Fund (EIF)

The EIF is an EU body which specializes in providing guarantee and venture capital instruments to SMEs for better access to funding. It uses equity capital or funds provided by the EIB or the European Union for its activities. It is neither a lending institution nor does it provide subsidies to enterprises or directly invest in them. All of its work is carried out through banks and other financial intermediaries. Moreover, it ensures the continuity required in the management of EU programs and has accumulated extensive experience in this area.

The EIF was created for purpose of fostering EU objectives, particularly in the areas of entrepreneurship, growth, innovation, research and development, employment and regional development. Today, the core mission of the EIF is to provide support to SMEs and grant them access to funding at a time of reduced financing from credit institutions. To meet this objective, it designs innovative financial products aimed at its partners (financial institutions), according to the needs of each regional market, to reach the local market through such financial intermediaries.

The EIF generally operates by providing guarantees for loans of all kinds and by investing in venture capital to support SMEs. In short, the work of the EIF can be classed according to the financial products (capital and debt) offered, notably including:
8. EU aid and incentives

- **Venture Capital Products**: The EIF invests in venture capital funds that provide financing to innovative SMEs.

- **Debt Products**: In these cases, the EIF provides security and credit enhancements to financial intermediaries to facilitate the flow of funds from financial institutions to SMEs.

- **Microfinance**: The EIF provides financing, security and technical assistance to financial institutions for their microfinance activities.

Indeed, although the EIF supports venture capital instruments with a view to making capital more available to high-growth innovative SMEs, it also offers debt instruments, since many SMEs seek financing from this more traditional route. From this standpoint, the EIF offers security and credit enhancements by means of the securitization of credit, in order to improve the lending capacity of financial intermediaries and, as a result, the ultimate availability and terms of the debt for the SME beneficiaries.

Lastly, a capital increase of the EIF was approved in 2014 in order to earmark €560 million for increasing the Fund’s support of the structured financing of SMEs as well as for strengthening its activity related to venture capital funds.

**Graphic 2**

**EIF IN SPAIN**

- **First EIF operation in Spain**: 1997
- **37 supported private equity funds investing in Spain SMEs**
- **16 partner finance and guarantee providers**
- **104,000 Spanish SMEs supported**
- **Outstanding commitments**
- **Mobilised resources (estimate since start of EIF operations)**
- **Total mobilised amount, invested by portfolio funds**

**Source**: www.eif.org
Table 14
EUROPEAN INVESTMENT FUND PRODUCTS

<table>
<thead>
<tr>
<th>Who is eligible?</th>
<th>What is available?</th>
<th>Intermediary</th>
<th>Initiative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Micro-enterprises including individuals</td>
<td>Micro-loans</td>
<td>• ICREF • Colonya</td>
<td>Progress Microfinance</td>
</tr>
<tr>
<td>Micro-enterprises including individuals</td>
<td>Micro-loans</td>
<td>• Seed Capital de Bizkaia</td>
<td>JASMINE</td>
</tr>
<tr>
<td>SMEs, Micro-enterprises including individuals based in Extremadura Region</td>
<td>Loans</td>
<td>• Banco Santander</td>
<td>JEREMIE</td>
</tr>
<tr>
<td>SMEs including Micro-enterprises and individuals</td>
<td>Loans, micro-loans &amp; guarantees</td>
<td>• CERSA • Caixa Capital Micro • MicroBank</td>
<td>CIP</td>
</tr>
<tr>
<td>Innovative SMEs and small Mid-Caps</td>
<td>Loans</td>
<td>• Bankinter</td>
<td>Risk Sharing Instrument (RSI)</td>
</tr>
<tr>
<td>SMEs</td>
<td>Equity</td>
<td>• If you are looking for equity capital, please refer to funds listed below in which EIF has invested</td>
<td>EIF resources and/or resources from his parties</td>
</tr>
</tbody>
</table>

Source: www.eif.org

8.3. European Structural and Investment Funds

8.3.1. European policy for 2014-2020

The European Union is working hard to move decisively beyond the crisis and create the conditions for a more competitive economy with higher employment. The “Europe 2020 Strategy” puts forwards three priorities:

- Smart growth, through more effective investment in education, research and innovation.
- Sustainable growth, thanks to a decisive move towards a more resource efficient, greener and competitive economy; and
- Inclusive growth, with a strong emphasis on job creation and on social and territorial cohesion.
8. EU aid and incentives

The strategy is focused on five ambitious goals for 2020 in the areas of employment, innovation, education, poverty reduction and climate change/energy. Thus, it is intended that:

- 75% of 20-64 year olds to be in employment.
- 3% of EU GDP to be invested in R&D.
- The “20-20-20” climate and energy targets should be met (including an increase of 30% in the reduction in emissions if the conditions are right).
- Rate of early school leaving to be under 10% and, at least, 40% of the youngest generation to complete third level education.
- At least 20 million fewer people in or at risk of poverty.

As a result of the “Europe 2020 strategy”, the EU has redirected its cohesion policy for 2014-2020, by introducing a number of changes with respect to the previous period (2007-2013), notably:

- Concentrating on priorities established in the Europe 2020 strategy: smart, sustainable and inclusive growth.
- Rewarding performance.
- Supporting integrated programming.
- Focusing on results (monitoring progress toward agreed objectives).
- Reinforcing territorial cohesion.
- Simplifying delivery.

In particular, the Cohesion Policy is instrumented with the following legislative structure:


2. Specific regulations for the ERDF, the ESF, the Cohesion Fund and the European Maritime and Fisheries Fund:

8. EU aid and incentives


3. Two regulations on the European Territorial Cooperation goal and the European Grouping of Territorial Cooperation (EGTC):


Based on the foregoing premises, EU general budget for the 2014-2020 period is distributed as follows:

![Graph showing EU budget distribution]

**Source:** www.ec.europa.eu

Other EU policies: agriculture, research, external, etc. € 730.2 bn

Cohesion policy funding € 351.8 bn
In line with the “Europe 2020 Strategy”, while all regions contribute to the general goal by investing in jobs and growth, the methods and scope of the intervention differ according to the level of economic development of each of them, settling down three categories for such purpose.

— The first category relates to “less developed” regions, whose GDP per capita is less than 75% of the average GDP of the EU-27\(^1\), which will remain an important priority for EU cohesion policy. The community co-financing rate for this group is capped at 75%-85%.

<table>
<thead>
<tr>
<th>ELEGIBILITY FOR LESS DEVELOPED REGIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NUTS 2 regions</strong> whose GDP per capita is less than 75% of the EU average.</td>
</tr>
<tr>
<td>Transitional support for regions which would have remained eligible for the convergence objective if the threshold remained 75% of the average GDP of EU-15 and not of EU-25.</td>
</tr>
<tr>
<td>Cohesion fund: Member States whose GNI per capita is less than 90% of the average GNI of EU-27.</td>
</tr>
<tr>
<td>Transitional support to Member States who would have been eligible for the Cohesion Fund if the threshold remained 90% of average GNI of EU-15 and not of EU-27.</td>
</tr>
</tbody>
</table>

— The second category comprises the “transition” regions, which are those whose GDP per capita falls between 75% and 90% of the EU average. In this case, the community co-financing can reach up to 60%.

<table>
<thead>
<tr>
<th>ELEGIBILITY FOR TRANSITION REGIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transitional support for NUTS 2 regions which would have remained eligible for the convergence objective if the threshold remained 75% of the average GDP of EU-15 and not of EU-25 (convergence phasing-out).</td>
</tr>
<tr>
<td>Transitional support for NUTS 2 regions which were covered by Objective 1 in 2000-2006 but whose GDP exceeded 75% of EU-15 GDP average (RCE phasing-in).</td>
</tr>
</tbody>
</table>

\(^1\) Based on figures previous to the entry of Croatia in July 2013.
8. EU aid and incentives

The last are the “more developed” regions, whose GDP per capita is more than 90% of the average. The co-financing rate may not exceed 50%.

| Table 17 |
|-----------------|------------------|
| **ELEGIBILITY FOR MORE DEVELOPED REGIONS** |

<table>
<thead>
<tr>
<th>2007-2013</th>
<th>2014-2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>All NUTS 2 regions outside the Convergence objective and not covered by the phasing out transitional support.</td>
<td>NUTS 2 regions whose GDP per capita is above 90% of the average GDP of the EU-27 with a differentiated treatment for regions which are eligible under the Convergence objective in 2007-2013.</td>
</tr>
<tr>
<td>Transitional support for NUTS 2 regions which were covered by Objective 1 in 2000-2006 but whose GDP exceeded 75% of EU-15 GDP average (RCE phasing-in).</td>
<td></td>
</tr>
</tbody>
</table>

Source: www.ec.europa.eu

Having regard to the foregoing classification, the map of the EU by regions is as follows:

<table>
<thead>
<tr>
<th>Map 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ALLOCATION OF AID BY REGION</strong></td>
</tr>
</tbody>
</table>

| LEVEL OF INVESTMENT ADAPTED TO LEVEL OF DEVELOPMENT |

- GDP < 75% of UE-27 average
  
  €164.000 Billion
  
  for less developed regions
  
  27% of UE population

- GDP 75-90% of UE-27 average
  
  €32.000 Billion
  
  for transition regions
  
  12% of UE population

- GDP > 90% of UE-27 average
  
  €49.000 Billion
  
  for more developed regions
  
  61% of UE population

Source: www.ec.europa.eu
8. EU aid and incentives

On the basis of the foregoing, the budget established in the Community cohesion policy is distributed as follows:

**Graphic 4**

**COHESION POLICY FUNDING**

**2014-220**

**€ 351.8 BILLION**

Source: www.ec.europa.eu

By country, the budget for the 2014-2010 period is distributed as follows:

**Graphic 5**

**BUDGET ALLOCATIONS PER MEMBER STATE (2014-2020)**

Total EU allocations of cohesion policy 2014-2020* (billion €, current prices)

* Breakdown by category of allocations subject to transfers between categories at the request of the Member States. Source: www.ec.europa.eu
8. EU aid and incentives

8.3.2. Common provisions on the European Structural and Investment Funds (ESI Funds)

Regulation (EU) No 1303/2013 of 17 December lays down common provisions applicable to all of the European Structural and Investment Funds (ERDF, ESF, Cohesion Fund, EAFRD and EMFF) and general provisions applicable to some of them, in order to ensure the effectiveness of the ESI Funds and their coordination with one another and with other EU instruments, notwithstanding the specific rules regulating each Fund and which are set out below.

The purpose of this Regulation is to improve the coordination and harmonize the execution of the Structural Investment Funds (ESI Funds) to ensure “smart, sustainable and inclusive growth” focused on the attainment of eleven thematic objectives:

1. Strengthening research, technological development and innovation.
2. Enhancing access to, and use and quality of ICT.
3. Enhancing the competitiveness of SMEs, of the agricultural sector (for the EAFRD) and of the fishery and aquaculture sector (for the EMFF).
4. Supporting the shift towards a low-carbon economy in all sectors.
5. Promoting climate change adaptation, risk prevention and management.
6. Preserving and protecting the environment and promoting resource efficiency.
7. Promoting sustainable transport and removing bottlenecks.
8. Promoting sustainable and quality employment and supporting labor mobility.
10. Investing in education, training and vocational training for skills and lifelong learning.
11. Enhancing institutional capacity of public authorities and stakeholders and efficient public administration.

To this end, a Common Strategic Framework (CSF) is created (which can be reviewed by the Commission where there are major changes in the social and economic situation in the Union), setting a number of common recommendations and criteria for those opting for financing from the Funds.

Based on the foregoing premises, the aim of the Funds is to provide support, through multi-annual Programs, which complements national, regional and local interventions, in order to deliver the “2020 Strategy”, as well as the objectives specific to each Fund, including economic, social and territorial cohesion.

The Member States, in accordance with their institutional, legal and financial framework, and the bodies designated by them, shall be responsible for preparing and implementing programs and
8. EU aid and incentives

carrying out their tasks, in partnership with the relevant partners. To this end, each Member State must promote a partnership in which, in addition to the competent local and regional authorities, with the participation of the following partners:

- Economic and social partners.

- Other relevant bodies representing civil society, including environmental partners, non-governmental organizations and bodies responsible for promoting social inclusion, gender equality and non-discrimination.

With this premise, the Partnership Agreement is the national document prepared by each Member State for the period between January 1, 2014 and December 31, 2020, which explains the investment strategy and priorities of the Funds (ERDF, ESF, EAFRD and EMFF) in such State and must be approved by the Commission.

The strategy defined in the Partnership Agreement must be based on a previous analysis of the current situation of the Member State and its regions (in particular of the disparities existing between those regions), the opportunities for growth and the weaknesses of all its regions and territories, in particular focusing on the thematic objectives, which will entail the identification of the priorities of each Fund through its specific legislation in that State:

In the case of Spain, the Partnership Agreement for the period 2014-2020 was approved by the European Commission on October 30, 2014. It establishes as specific objectives of the Funds, in Spain, to promote the competitiveness and the convergence of all territories, giving priority to the thematic areas included in the recommendations given by the European Council, to those contained in the Position Paper prepared by the Commission\(^2\), as well as to those set forth in the National Reform Program approved by the Council of Ministers on April 30, 2014.

This Partnership Agreement enables an investment of €28,580 million aimed at financing the entire Community cohesion policy in Spain for the period 2014-2020\(^3\), a figure which must be increased by €8,290 million to be used for the performance of Rural Development Programmes and €160 million for the fisheries and maritime sectors.

This financing is to be used to execute the specific proposal for action described in the Partnership Agreement in connection with each of the thematic objectives listed above, their main priorities being the following:

- Increasing participation in the labor market and labor productivity, as well as enhancing education, training and social inclusion policies, giving special attention to youth and vulnerable groups.

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3 Including the financing of European territorial cooperation and the allocation for the youth employment initiative.
8. EU aid and incentives

- Supporting the adaptation of the productive system toward activities with greater added value, by increasing the competitiveness of SMEs.

- Promoting a suitable business environment targeted at innovation and strengthening R&D&I systems.

- Attaining a more efficient use of natural resources.

Notwithstanding the foregoing, the material implementation of the Funds is to be carried out through the respective Operational Programs to be presented by each Member State to the Commission according to the terms stated in the Partnership Agreement. Each program will define priorities and proposals for action, specifying the projected investment and breaking it down by each of the years of the period in which it is applied.

In the case of Spain, most of the Operational Programs projected in the Partnership Agreement are currently being processed, awaiting approval by the European Commission.4

Table 18

<table>
<thead>
<tr>
<th>STRATEGIC PROGRAMMING 2014-2020</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>EU level</strong></td>
</tr>
<tr>
<td><strong>Common Strategic Framework</strong></td>
</tr>
<tr>
<td>(ERDF, ESF, CF, EAFRD, EMFF)</td>
</tr>
<tr>
<td>Establishes strategic priorities and territorial challenges in line with Europe 2020.</td>
</tr>
<tr>
<td><strong>National level</strong></td>
</tr>
<tr>
<td><strong>Partnership Agreement</strong></td>
</tr>
<tr>
<td>(ERDF, ESF, CF, EAFRD, EMFF)</td>
</tr>
<tr>
<td>Prepared by the Member State Translates the elements of the MEC to national context. Includes commitments to Fund programming.</td>
</tr>
<tr>
<td><strong>National or regional level</strong></td>
</tr>
<tr>
<td><strong>Operating Programmes</strong></td>
</tr>
<tr>
<td>MEC and Partnership Agreements will be implemented in Member States through OPs. Prepared in close collaboration with the various agents (partnership).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>O.P. ERDF</th>
<th>O.P. ESF</th>
<th>O.P. CF</th>
<th>O.P. EAFRD</th>
<th>O.P. EMFF</th>
<th>Multi-fund O.P. (ERDF, ESF, CF)</th>
</tr>
</thead>
</table>

Source: www.ec.europa.eu

8.3.3. Funds under the Cohesion Policy: ERDF, ESF and Cohesion Fund

The Funds under the Cohesion Policy include Structural Funds (ERDF and ESF) and the Cohesion Fund, which contribute to enhancing economic, societal and territorial cohesion.

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4 In this line, the Operational Program known as “Initiative SMEs ERDF 2014-2020” was approved by the European Commission on December 12, 2014.
8. EU aid and incentives

The new Community cohesion policy pursues two objectives:

1. *Investment in growth and jobs in Member States and their regions:*
   
   The resources for this objective amount to around 97% of the projected total investment in Spain (approximately €28.58 billion) and will be allocated as follows:
   
   a) €2 billion to less developed regions (Extramadura).
   
   b) €13.4 billion to transition regions (Andalucía, Canary Islands, Castilla-La Mancha, Melilla and Murcia).
   
   c) €11 billion to more developed regions (Aragón, Asturias, Balearic Islands, Cantabria, Castilla y León, Cataluña, Ceuta, Valencia, Galicia, La Rioja, Madrid, Navarra, Basque Country).
   
   d) €484.1 million as special funding for the outermost regions (Canary Islands).

2. *European Territorial Cooperation:*
   
   The resources earmarked for this objective amount to approximately 3% of the total resources allocated to Spain with a charge to the ESI Funds during the 2014-2020 period (i.e., a total of €643 million).

   In summary, the articulation of the Cohesion Policy during this new budgetary period will be instrumented according to the following scheme:

<table>
<thead>
<tr>
<th>2007-2013</th>
<th>2014-2020</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Objectives</strong></td>
<td><strong>Goals</strong></td>
</tr>
<tr>
<td>Convergence</td>
<td>ERDF</td>
</tr>
<tr>
<td>Convergence phasing out</td>
<td>ESF</td>
</tr>
<tr>
<td>Regional competitiveness and Employment Phasing in</td>
<td>Cohesion Fund</td>
</tr>
<tr>
<td>Regional competitiveness and Employment</td>
<td>ERDF</td>
</tr>
<tr>
<td></td>
<td>ESF</td>
</tr>
<tr>
<td>European Territorial Cooperation</td>
<td>ERDF</td>
</tr>
</tbody>
</table>

Source: www.ec.europa.eu
8. EU aid and incentives

Based on the foregoing premises, the following is a description of the main characteristics of the Structural Funds (ERDF and ESF) and the Cohesion Fund:

1. European Regional Development Fund (ERDF)

This Fund will contribute to the funding of aid targeted at enhancing economic, societal and territorial cohesion by correcting the Union’s main regional imbalances through sustainable development and the structural adjustment of regional economies, as well as by restructuring industrial regions in decline and less developed regions.

The activities that can be cofinanced by the ERDF are the following:

a) Investments in production which contribute to creating or preserving long-term employment, through direct aid and investment in SMEs.

b) Productive investments, independent of the size of the company in question, which contribute to boosting research, technological development and innovation and to supporting a shift towards a low-carbon economy in all sectors. Also, where such investment entails cooperation between large companies and SMEs to enhance access to, and use and quality of information and communication technologies.

c) Investments in infrastructures which provide basic services to citizens in the areas of energy, environment, transportation and information and communication technologies.

d) Investments in societal, health, research, innovation, business and educational infrastructures.

e) Investment in the development of native potential through ongoing investments in capital goods and small infrastructures, including small cultural and sustainable tourist infrastructures, corporate services, aid to research and innovation bodies and investment in technology and applied research at companies.

f) Interconnection online, cooperation and exchange of experiences between competent regional, local, urban and other public authorities, economic and social partners and the related bodies representing civil society referred to in article 5.1 of Regulation (EU) No 1303/2013, as well as the performance of studies, preparatory actions and the development of capacities.

However, the following activities are not eligible for funding under this Fund (i) disassembly or construction of nuclear power plants; (ii) investment in the reduction of greenhouse gas emissions pursuant to Annex 1 of Directive 2003/87/EC; (iii) manufacture, processing and marketing of tobacco and manufactured tobacco; (iv) enterprises undergoing difficulties; as well as (v) in general, investments in airport infrastructures, unless they are related to environmental protection or are accompanied by the investments necessary to mitigate or reduce their negative impact on the environment.
Although the ERDF Fund contributes to financing the eleven thematic objectives described above, its main priority is targeted at the attainment of Objectives 1 through 4, more related to the business context (infrastructures, service enterprises, support for corporate activities, innovation, CIT and research) as well as to the provision of services to citizens in certain areas (energy, online services, education, health, societal and research infrastructures, accessibility, environmental quality).

<table>
<thead>
<tr>
<th>INVESTING IN GROWTH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Research and innovation</td>
</tr>
<tr>
<td>Information and communication technologies</td>
</tr>
<tr>
<td>Competitiveness of SMEs</td>
</tr>
<tr>
<td>Low-carbon economy</td>
</tr>
</tbody>
</table>

Source: www.ec.europa.eu

During the 2014-2020 period Spain will manage 22 Operational Programmes co-financed by the ERDF with an amount of €19,408,883,778, pursuant to the Partnership Agreement approved by the Commission.

Under the objective entitled “Investment in growth and jobs”, the ERDF will use Operating Programmes to support sustainable urban development through strategies which establish measures to meet economic, environmental, climate, demographic and societal challenges with an impact on urban areas, also bearing in mind the need to promote the relationship between the urban and rural environments. For such purpose, at least 5% of the resources of the ERDF assigned at national level will be used for sustainable urban development.

Spain’s Partnership Agreement also includes a reference to the attainment of this objective with financing for a number of proposals targeted at promoting the development of cities from a threefold perspective: (i) sustainable city (aimed at enhancing the physical and environmental dimension); (ii) smart city (aimed at enhancing the economic and competitiveness dimension); and (iii) inclusive city (aimed at enhancing the social dimension).

In turn, under the objective “European Territorial Cooperation”, the ERDF will support:

— Cross-border cooperation between adjoining regions aimed at favoring integrated regional development between neighboring regions with terrestrial and maritime borders between two or more Member States or with a third country on the Union’s outer borders.
8. EU aid and incentives

It is sufficient to indicate, in this connection, that Spain participates in the following cross-border cooperation programs:

Table 21
CROSS-BORDER COOPERATION PROGRAMS

- (Interreg V-A) Spain-France-Andorra (POCTEFA): regions of Spain, France and Andorra.
- (Interreg V-A) Spain-Portugal (POCTEP): regions of Spain and Portugal.
- (Interreg V-A) Spain-Portugal (Madeira-Azores-Canary Islands [MAC]): regions of Spain, Portugal and the third countries of Cabo Verde, Mauritania and Senegal.

Source: www.dgfc.sgpg.meh.es

— Transnational cooperation in large transnational areas in which national, regional and local partners participate and which also includes maritime cross-border cooperation in cases not covered by cross-border cooperation, with a view to attaining a higher degree of territorial integration in those territories.

Map 2
TRANSNATIONAL COOPERATION PROGRAMS

Source: www.ec.europa.eu
8. EU aid and incentives

Spain participates in the following transnational cooperation programs:

<table>
<thead>
<tr>
<th>Table 22</th>
<th>TRANSNATIONAL COOPERATION PROGRAMS</th>
</tr>
</thead>
<tbody>
<tr>
<td>• (Inter-reg V-B) Southwest Europe: regions of Spain, France, Portugal and the UK.</td>
<td></td>
</tr>
<tr>
<td>• (Inter-reg V-B) Atlantic Area: regions of Spain, the UK, France, Ireland and Portugal.</td>
<td></td>
</tr>
<tr>
<td>• (Inter-reg V-B) Mediterranean: regions of Spain, Greece, France, Croatia, Italy, Cyprus, Malta, Portugal, Slovenia and the UK and of the third countries of Albania, Bosnia and Herzegovina and Montenegro.</td>
<td></td>
</tr>
<tr>
<td>(Within the cross-border program) MAC (Madeira-Azores-Canary Islands): regions of Spain, Portugal and the third countries of Cabo Verde, Mauritania and Senegal.</td>
<td></td>
</tr>
</tbody>
</table>

Source: www.dgfc.sepg.meh.es

— Interregional cooperation to enhance the efficiency of the cohesion policy, its scope of application being the entire territory of the EU.

Spain participates in the following interregional cooperation programs:

<table>
<thead>
<tr>
<th>Table 23</th>
<th>INTERREGIONAL COOPERATION PROGRAMS</th>
</tr>
</thead>
<tbody>
<tr>
<td>• INTERREG EUROPE: All member states and Switzerland-Norway.</td>
<td></td>
</tr>
<tr>
<td>• INTERACT: All member states and Switzerland-Norway.</td>
<td></td>
</tr>
<tr>
<td>• URBACT: All member states and Switzerland-Norway.</td>
<td></td>
</tr>
<tr>
<td>• ORATE: All member states and Switzerland-Norway-Iceland-Liechtenstein.</td>
<td></td>
</tr>
</tbody>
</table>

Source: www.dgfc.sepg.meh.es

2. European Social Fund (ESF)

The mission of the ESF is (i) to promote high levels of employment and of job quality, (ii) improve access to the job market, (iii) foster the geographical and professional mobility of workers, (iv) facilitate their adaptation to the industrial change and to the changes in production systems necessary to guarantee sustainable development, (v) favor a high level of education and training for all and support the transition from education to employment among youth, (vi) combat poverty, back social inclusion and (vii) foster equality between the sexes, non-discrimination and equal opportunity, thus responding to the EU’s priorities in matters of improving economic, societal and territorial cohesion.
8. EU aid and incentives

The Fund seeks to benefit citizens and, in particular, disadvantaged persons, such as long-term unemployed persons, disabled persons, immigrants, ethnic minorities, outcast communities and persons of any age living in poverty and social exclusion. The ESF will also provide aid to workers, enterprises, including agents of the social economy, and entrepreneurs, as well as to systems and structures, with a view to facilitating their adaptation to new challenges (including greater suitability of professional qualifications), and fostering good governance, social progress and the implementation of reforms, especially in the area of employment, education, training and social policies.

<table>
<thead>
<tr>
<th>INVESTING IN PEOPLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment and Mobility</td>
</tr>
<tr>
<td>Better education</td>
</tr>
<tr>
<td>Social inclusion</td>
</tr>
<tr>
<td>Better public administration</td>
</tr>
</tbody>
</table>

Source: www.ec.europa.eu

Although the ESF is aimed at attaining specifically the following four investment priorities of the eleven thematic objectives (i.e., objectives 8 through 11) [(i) employment and labor mobility; (ii) education, skills and lifelong learning; (iii) promoting social inclusion and combating poverty; and (iv) enhancing institutional capacity], the initiatives supported by the ESF will also contribute to the achievement of other objectives.

According to the terms of the Partnership Agreement, Spain will manage 23 Operational Programmes with ESF co-financing of at least €7.6 billion (28.1% of the total budgets of the Cohesion Policy), without counting the budget to be used for the Youth Employment Initiative.

In particular, in connection with the youth employment initiative, Spain has been allocated an additional €943.5 million to be used to back the fight against youth unemployment among youth under 25 years of age who are not integrated in educational or training systems and are inactive or unemployed. In Spain, this initiative can also benefit those under 30 years of age, if they are persons with a degree of disability equal to or greater than 33%.

The regions in which this initiative will apply in the 2014-2015 period are NUTS level 2 regions whose unemployment rates among youth of between 15 and 24 years of age were higher.

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5 Pursuant to article 88.d of Royal Decree Law 8/2014, of July 4, 2014, approving urgent measures for growth, competitiveness and efficiency.
8. EU aid and incentives

than 25% in 2012 and, in the case of Member States in which the youth unemployment rate increased by more than 30% in 2012, NUTS level 2 regions whose youth unemployment rates exceeded 20% in 2012.

Thus, the following are the eligible regions under the youth employment initiative:

![Map 3: Eligible Regions Under the Youth Employment Initiative](image)

Source: [www.ec.europa.eu/esf](http://www.ec.europa.eu/esf)

3. Cohesion Fund

The Cohesion Fund is targeted at Member States with GNI (gross national income) per capita of less than 90% of the average income of the EU. The primary objective of the Fund is to reduce the socio-economic disparities among Member States and to promote sustainable development. The Cohesion Fund allocates a total of €63.4 billion to activities in the following categories:

a) Trans-European transport networks, in particular priority projects of European interest identified by the EU. The Cohesion Fund backs infrastructure projects in the context of the Connecting Europe Facility.
8. EU aid and incentives

b) **Environment:** in this connection, the Cohesion Fund will support projects relating to energy or transport, provided that they are clearly beneficial to the environment in terms of energy efficiency, using renewable energies, developing rail transport, enhancing intermodality, strengthening public transport, etc.

As indicated, the Cohesion Fund is currently subject to the same programming, management and supervisory rules as the ERDF and the ESF under the common provisions regulation. During the 2014-2020 period, the Cohesion Fund will support Bulgaria, Croatia, Cyprus, Slovakia, Slovenia, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, the Czech Republic and Romania. In other words, Spain, during the 2014-2020 period will not receive financing from this Fund.

Source: www.ec.europa.eu
8. EU aid and incentives

8.4. The funding policy of the Common Agricultural Policy (CAP)

The Common Agricultural Policy (CAP) absorbs around 40% of the total budget of the EU for this period, representing in 2014 approximately €58 billion. Despite its heavy budgetary weight, justified in part by its being one of the few sectors whose policy is financed principally by the EU, its specific weight has been reduced substantially over the last 30 years, dropping from 75% to the current 40%.


In particular, the CAP for the 2014-2020 period is based on two structural pillars:

- The first pillar, instrumented through the EAGF, provides direct support to farmers and funds market measures. The direct support and market measures are funded in their entirety and exclusively by the EU budget, with a view to guaranteeing the application of a common policy throughout the single market and with the integrated management and control system.

- The second pillar, instrumented through the EAFRD, produces specific environmental public assets, improves the competitiveness of agricultural and forestry industries and promotes the diversification of economic activity and quality of life in rural areas, including regions with specific problems, i.e., it provides support for rural development. Member States must co-finance these measures.

Graphic 6
THE TWO-PILLAR STRUCTURE IS MAINTAINED

Source: www.magrama.gob.es
8. EU aid and incentives

The following is a description of the main characteristics of these two Funds:

1. **EAGF**

   In general, the EAGF funds the following actions, managed jointly by the Member States and the Commission:
   
   — Measures aimed at regulating or supporting agricultural markets.
   
   — Direct payments to farmers established within the scope of the CAP.
   
   — The financial participation of the Union in the measures taken by Member States to report and promote agricultural products on the Union’s domestic market and in third countries.
   
   — The financial participation of the Union in the Union school fruit and vegetable scheme referred to in article 23 of Regulation (EU) No 1308/2013 and the measures concerning animal diseases and loss of consumer confidence referred to in article [155] of the same Regulation.

   In turn, the EAFRD provides direct funding for the following expenditure:
   
   — Promotion of agricultural products, undertaken either directly by the Commission or through international organizations.
   
   — Measures, taken in accordance with Union law, to ensure the conservation, characterization, collection and utilization of genetic resources in agriculture.
   
   — The establishment and maintenance of agricultural accounting information systems.

   The Commission provides Member States with the credit necessary to cover the expenses financed by the EAGF, in the form of monthly reimbursements.

2. **EAFRD**

   In the field of local development, consideration must be given to Regulation nº 1305/2013, of the European Parliament and of the Council, of 17 December 2013, on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) nº 1698/2005.

   In particular, the EAFRD has three basic objectives in the context of the 2020 European Strategy:
   
   a) Fostering the competitiveness of agriculture.
   
   b) Ensuring the sustainable management of natural resources, and climate action.
   
   c) Achieving a balanced territorial development of rural economies and communities including the creation and maintenance of employment.
8. EU aid and incentives

In order to meet these objectives, the EAFRD has six priorities:

— Fostering knowledge transfer and innovation in agriculture, forestry, and rural areas.

— Enhancing farm viability and competitiveness of all types of agriculture in all regions and promoting innovative farm technologies and the sustainable management of forests.

— Enhancing farm viability and competitiveness of all types of agriculture in all regions and promoting innovative farm technologies and the sustainable management of forests.

— Restoring, preserving and enhancing ecosystems related to agriculture and forestry.

— Promoting resource efficiency and supporting the shift towards a low carbon and climate resilient economy in agriculture, food and forestry sectors.

— Promoting social inclusion, poverty reduction and economic development in rural areas.

Pursuant to the Partnership Agreement approved by Spain, 18 Operational Programmes will be eligible for co-financing with a charge to the EAFRD, for a total amount for the entire period of €8,209,828,821.

8.5. European Maritime and Fisheries Fund (EMFF)

For the 2014-2020 period, a new Fund has been created for EU maritime and fishery policies: the European Maritime and Fisheries Fund (EMFF).


1. Fostering environmentally competitive, environmentally sustainable, economically viable and socially responsible fisheries and aquaculture.

2. Boosting the implementation of the Common Fisheries Policy (CFP).

3. Fostering a balanced and inclusive territorial development of fishing and aquaculture areas.

4. Boosting the development and application of the Union’s Integrated Maritime Policy (IMP) supplementary to the cohesion policy and to the CFP.

In line with the “2020 European Strategy” and with the start-up of the Common Fisheries Policy, the Fund pursues the following priorities concerning the sustainable development of fishing and aquaculture activities and connected activities:
8. EU aid and incentives

- **Fostering environmentally sustainable,** resource efficient, innovative, competitive and knowledge-based **fisheries,** by pursuing the following specific objectives:
  
a) The reduction of the impact of fisheries on the marine environment, including the avoidance and reduction, as far as possible, of unwanted catches.
  
b) The protection and restoration of aquatic biodiversity and ecosystems.
  
c) The ensuring of a balance between fishing capacity and available fishing opportunities.
  
d) The enhancement of the competitiveness and viability of fisheries enterprises, including small-scale coastal fleet and the improvement of safety and working conditions.
  
e) The provision of support to strengthen technological development and innovation, including increasing energy efficiency and knowledge transfer.
  
f) The development of professional training, new professional skills and lifelong learning.

- **Fostering environmentally sustainable,** resource efficient, innovative, competitive and knowledge-based **aquaculture,** by pursuing the following specific objectives:
  
a) The provision of support to strengthen technological development, innovation and knowledge transfer.
  
b) The enhancement of the competitiveness and viability of aquaculture enterprises, including the improvement of safety and working conditions, in particular of SMEs.
  
c) The protection and restoration of aquatic biodiversity and the enhancement of ecosystems related to aquaculture and the promotion of resource-efficient aquaculture.
  
d) The promotion of aquaculture having a high level of environmental protection, and the promotion of animal health and welfare and of public health and safety.
  
e) The development of professional training, new professional skills and lifelong learning.

- **Fostering the implementation of the Common Fisheries Policy** by pursuing the following specific objectives:
  
a) The improvement and supply of scientific knowledge as well as the improvement of the collection and management of data.
  
b) The provision of support to monitoring, control and enforcement, thereby enhancing institutional capacity and the efficiency of public administration, without increasing the administrative burden.

- **Increasing employment and territorial cohesion** by pursuing the following specific objective:
  
The promotion of economic grown, social inclusion and job creation, and providing support to employability and labor mobility in coastal and inland communities which depend on fishing and
8. EU aid and incentives

Aquaculture, including the diversification of activities within fisheries and into other sectors of maritime economy.

- **Fostering marketing and processing** by pursuing the following specific objectives:
  
  a) The improvement of market organization for fishing and aquaculture products.
  
  b) The encouragement of investment in the processing and marketing sectors.

- Lastly, fostering the implementation of the Integrated Maritime Policy, i.e., the Union policy whose aim is to foster coordinated and coherent decision-making to maximize the sustainable development, economic growth and social cohesion of Member States, and notably the coastal, insular and outermost regions in the Union, as well as maritime sectors, through coherent maritime-related policies and relevant international cooperation.

The EMFF has a budget of €5,749,331,600 for the shared management measures, i.e., those taken in cooperation with the Member States and in compliance with the common provisions set forth in Regulation (EU) Nº 1303/2013. It will also have €647,275,400 with which to take financial action under direct management, on the terms and with the scope described under Title [VI] of Regulation (EU) Nº 508/2014.

Pursuant to the approved Partnership Agreement, Spain has prepared an Operational Programme relating to this Fund, to which a budget of €1,161,620,889 has been allocated, the competent authority for its management being the Directorate-General of Fisheries under the Secretariat-General of Fisheries of the Ministry of Agriculture, Environment and Food.

**8.6. European Union Research and Innovation Programs**

**8.6.1. Horizon 2020**

The EU has been establishing multi-year programmes which contained the lines of action of the Community research and innovation policy, allocating considerable resources to their performance.

Currently the EU Research and Innovation Programme for the 2014-2020 period is called “Horizon 2020” and is regulated in Regulation (EU) No 1291/2013 of the European Parliament and of the Council, of 11 December 2013. Its objective is to contribute to building a society and an economy based on knowledge and innovation across the Union with a view to mobilizing additional funding which, among other objectives, attains a target of 3% of the GDP for research and development across the Union during this period.

Horizon 2020 is based on three fundamental pillars:

1. **Excellent Science** (with a budget of €24,441 million), with the target of raise the level of excellence in European basic science and to ensure a constant flow of quality research with a view to guaranteeing Europe’s long-term competitiveness. In order to reach this goal, it will support the best ideas and seek to develop talent within Europe. It also aims to ensure that researchers
8. EU aid and incentives

have access to priority research infrastructures and make Europe an attractive place for the best researchers in the world.

It has four specific objectives:

— Providing attractive and flexible funding through the European Research Council (ERC) to enable talented and creative individual researchers and their teams to pursue the most promising avenues at the frontier of science, on the basis of Union-wide competition.

— Supporting collaborative research through Future and Emerging Technologies in order to expand Europe’s capacity for advance and paradigm-changing innovation, in particular, by fostering scientific collaboration across disciplines on radically new, high-risk ideas and accelerate development of the most promising emerging areas of science and technology and well as the Union-wide structuring of the corresponding scientific communities.

— Providing, through Marie Skłodowska-Curie (MSCA) actions, excellent and innovative research training as well as attractive career and knowledge-exchange opportunities through cross-border and cross-sector mobility of researchers to best prepare them to face current and future societal challenges.

— Developing and supporting excellent European research infrastructures and assisting them to contribute to the European Research Area by fostering their innovation potential, attracting world-level researchers and training human capital, and complimenting this with the related Union policy and international cooperation.

2. Industrial Leadership (with a budget of €17.016 billion). This priority is aimed at speeding up the development of the technologies and innovations which will underpin tomorrow’s businesses, and helping innovative SMEs to grow into world-leading companies. It has three specific objectives:

— Leadership in enabling and industrial technologies, provides specific support for research, development and demonstration and, where appropriate, for standardization and certification, on information and communications technology (ICT), nanotechnology, advanced materials, biotechnology, advanced manufacturing and processing and space. Emphasis is placed on the needs of users in all these fields, promoting enabling technologies able to be used in multiple sectors, industries and services.

— Access to risk finance, aims to overcome deficits in the availability of debt and equity finance for R&D and innovation-driven companies and projects at all stages of development. Thus SMEs have available to them a group of financial intermediaries to which they may apply for capital, guarantees or counterguarantees for their R&D projects. It also supports the development of Union-level venture capital with the equity instrument of the “Programme for the Competitiveness of Enterprises and SMEs” (currently the COSME programme).
8. EU aid and incentives

— *Innovation in SMEs,* provides SME-tailored support to stimulate all forms of innovation, targeting those with the potential to grow and internationalize across the single market and beyond. In particular, the commitment reached under “Horizon 2020” is for a least 20% of the funding budgeted for the areas “Leadership in enabling and industrial technologies” and “Societal Challenges” to be allocated to SMEs, which means that they will receive €7.6 billion, to be distributed as follows:

- 7% through the *SME Instrument,* beginning with 5% in 2014-2015 and rising to an average of 7% throughout Horizon 2020 (a total of approximately €2.7 billion).

- The remaining 13%, through the strategies of each Challenge or Technology where SMEs are involved in their “normal” collaborative projects, either with SME-targeted calls for applications or with more or less relevant topics to encourage SMEs to participate in projects.

The “SME Instrument” is 3-phase scheme of funding aimed at supporting SMEs showing a strong ambition to grow, develop and internationalize, through an innovation project with a European dimension. The Programme has 3 phases which cover the complete innovation cycle:

- **Phase 1: Concept and assessment of feasibility:** SMEs receive funding for an assessment of the scientific or technical feasibility and commercial potential of a new idea (concept test) in order to develop an innovative project. A positive result of this assessment will allow them to be funded through the following phases.

  As an example, in the first selection process carried out in connection with this Phase in June 2014, 2,600 proposals were analyzed, of which 144, from 21 different countries, were pre-selected, receiving aid of €50,000 to fund the proposed viability study.

  Spain was the country with the highest number of pre-selected proposals, as shown on the following graph:
8. EU aid and incentives

**Graphic 7**

**HORIZON 2020’s. SME INSTRUMENT. PHASE 1 - JUNE 2014**

Number of projects pre-selected for funding.

![Graph showing number of projects pre-selected for funding across different countries and topics.](image)

Source: [www.ec.europa.eu](http://www.ec.europa.eu)

List of proposals analyzed according to subject-matter:

**Table 25**

ANALYSIS OF PROPOSALS RECEIVED AND PRE-SELECTED BY TOPIC
Phase 1. 1st cut-off date (June 2014)

<table>
<thead>
<tr>
<th>Topic</th>
<th>Proposals evaluated</th>
<th>Proposals above threshold</th>
<th>Max. projects fundable</th>
<th>% positive evaluation</th>
<th>Success rate above threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blue growth</td>
<td>48</td>
<td>6</td>
<td>3</td>
<td>12%</td>
<td>50%</td>
</tr>
<tr>
<td>Biotech</td>
<td>74</td>
<td>8</td>
<td>3</td>
<td>11%</td>
<td>38%</td>
</tr>
<tr>
<td>Green transport</td>
<td>227</td>
<td>26</td>
<td>24+2</td>
<td>12%</td>
<td>100%</td>
</tr>
<tr>
<td>Nanotech</td>
<td>310</td>
<td>29</td>
<td>15+2</td>
<td>9%</td>
<td>59%</td>
</tr>
<tr>
<td>Eco-innovation</td>
<td>248</td>
<td>32</td>
<td>11+1</td>
<td>13%</td>
<td>38%</td>
</tr>
<tr>
<td>Food production</td>
<td>125</td>
<td>29</td>
<td>7</td>
<td>23%</td>
<td>24%</td>
</tr>
<tr>
<td>Low carbon energy systems</td>
<td>374</td>
<td>46</td>
<td>22+1</td>
<td>12%</td>
<td>50%</td>
</tr>
<tr>
<td>Space</td>
<td>61</td>
<td>4</td>
<td>4</td>
<td>7%</td>
<td>100%</td>
</tr>
<tr>
<td>Urban critical infrastructures</td>
<td>41</td>
<td>6</td>
<td>6</td>
<td>15%</td>
<td>100%</td>
</tr>
</tbody>
</table>
8. EU aid and incentives

<table>
<thead>
<tr>
<th>Table 25 (cont.)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ANALYSIS OF PROPOSALS RECEIVED AND PRE-SELECTED BY TOPIC</strong></td>
</tr>
<tr>
<td><strong>Phase 1. 1st cut-off date (June 2014)</strong></td>
</tr>
<tr>
<td>Topic</td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td>Diagnostic devices and biomarkers</td>
</tr>
<tr>
<td>Open disruptive innovation</td>
</tr>
<tr>
<td>Total/average</td>
</tr>
</tbody>
</table>

Source: www.ec.europa.eu

In this line, at the beginning of 2015, 237 proposals had already been approved, and Spain continued to be the country with the highest number of beneficiaries (71).

- **Phase 2: R&D, demonstration and market replication:** This phase supports research and development focused on demonstration activities (testing, prototype, scale-up studies, design, innovative processes, products and services, performance verification, etc.) and market replication.

  The R&D projects selected could obtain funding of up to €2.5 million, although funding could be as much as €5 million for health-related projects.

  At the end of 2014, Spain had a total of 12 approved projects, and was the country with the highest number of selected proposals.

- **Phase 3: Commercializing:** This phase does not provide direct funding (apart from support activities), but rather aims to facilitate access to private capital and to environments enabling innovation. Links are to be established with access to risk finance.

  Each phase is open to all SMEs and the transition between one phase and another is immediate, provided that evidence has been given of the need to receive additional funding based on the success of the previous phase.
Table 26
PHASES OF “SME INSTRUMENT”

<table>
<thead>
<tr>
<th>Phase 1</th>
<th>Phase 2</th>
<th>Phase 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concept &amp; Feasibility Assessment</td>
<td>Demonstration, Market Replication, R&amp;D</td>
<td>Commercialisation</td>
</tr>
<tr>
<td>Idea to concept (6 months)</td>
<td>Concept to Market-Maturity (1-2 years)</td>
<td>Prepare for Market Launch</td>
</tr>
<tr>
<td>• The SME will draft an initial business proposal.</td>
<td>• The SME will further develop its proposal through innovation activities, and draft a more developed business plan.</td>
<td>• The SME will receive extensive support to help polish its concept into a marketable product, and have access to networking opportunities.</td>
</tr>
<tr>
<td>• The European Union will provide €50,000 in funding and business coaching.</td>
<td>• The EU may contribute between €0.5 million and €2.5 million* and provide business coaching.</td>
<td>• The EU will not provide funding in this phase.</td>
</tr>
</tbody>
</table>

* Up to €5 million for health projects.
Source: www.bookshop.europa.eu

The SME Instrument has the following characteristics differentiating it from collaborative projects:

- Each thematic or societal challenge of Horizon 2020 has at least one “topic” or theme for the SME Instrument whose content is very open in the context of each technology or societal challenge.

- SMEs are the only ones able to apply for it, although projects may be submitted together with other entities of any type, which may be subcontracted.

- The formation of a previously-defined minimum consortium is not required. The SME is free to choose the consortium most suitable to its needs, and may even go it alone, but it is important to remember that European added value is a fundamental selection criteria.

- It functions with various call dates per year submission deadlines per year, both for Phase 1 and for Phase 2.

- SMEs which have received funding in Phases 1 and/or 2 will have priority access to the financial instruments made available under the “Access to Risk Finance” programme.

- All SMEs participating in the SME Instrument will benefit from a coaching scheme associated with the Instrument.
8. EU aid and incentives

3. **Societal Challenges** (with a budget of €29.679 billion), aimed at researching the major issues affecting European citizens. This line of action focuses on six areas essential to achieve a better life:

- Health, demographic change and wellbeing.
- Food security, sustainable agriculture and forestry, marine, maritime and inland water research and the bioeconomy.
- Secure, clean and efficient energy.
- Smart, green and integrated transport.
- Climate action, environment, resource efficiency and raw materials.
- Europe in a changing world: inclusive, innovative and reflective societies.
- Secure societies: protection of the freedom and security of Europe and its citizens.

The focus of all activities must be based on responding to the challenges facing society, including basic or applied research, technology or innovation transfer, targeting political priorities without predetermining the technologies or solutions which will have to be developed. Emphasis will be placed on bringing together a critical mass of resources and knowledge of different fields, technologies, scientific disciplines and research infrastructures in order to meet the challenges. The activities must cover the complete cycle, starting with market research, emphasizing activities relating to innovation, such as pilot projects, demonstration activities, testing banks, support for public contracting, design, innovation promoted by the end user, social innovation, technology transfer and assimilation of innovations by the market.

<table>
<thead>
<tr>
<th>Table 27</th>
<th>HORIZON 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>HORIZON 2020</strong></td>
<td>77,028</td>
</tr>
<tr>
<td><strong>Excellent science</strong></td>
<td>24,441</td>
</tr>
<tr>
<td>1. European Research Council (ERC)</td>
<td>13,095</td>
</tr>
<tr>
<td>2. Future and Emerging Technologies (FET)</td>
<td>2,696</td>
</tr>
<tr>
<td>3. Marie Sklodowska Curie actions</td>
<td>6,162</td>
</tr>
<tr>
<td>4. Research infrastructures</td>
<td>2,488</td>
</tr>
<tr>
<td><strong>Industrial leadership</strong></td>
<td>17,016</td>
</tr>
<tr>
<td>1. Leadership in enabling and industrial technologies</td>
<td>13,557</td>
</tr>
<tr>
<td>1.1 Information and communication technologies (ICT)</td>
<td>7,711</td>
</tr>
<tr>
<td>1.2 Nanotechnologies 1.3 Advanced materials and 1.4 Advanced manufacturing and processing</td>
<td>3,851</td>
</tr>
<tr>
<td>1.5 Biotechnology</td>
<td>516</td>
</tr>
<tr>
<td>1.6 Space</td>
<td>1,479</td>
</tr>
<tr>
<td>2. Access to risk finance</td>
<td>2,842</td>
</tr>
<tr>
<td>3. SME innovation</td>
<td>616</td>
</tr>
</tbody>
</table>
8. EU aid and incentives

Table 27 (cont.)

HORIZON 2020

<table>
<thead>
<tr>
<th>Societal Challenges</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Health, demographic change and wellbeing</td>
<td>7,472</td>
</tr>
<tr>
<td>2. Food security, sustainable agriculture and forestry, marine, maritime and inland water research and the bioeconomy</td>
<td>3,851</td>
</tr>
<tr>
<td>3. Secure, clean and efficient energy</td>
<td>5,931</td>
</tr>
<tr>
<td>4. Smart, green and integrated transport</td>
<td>6,339</td>
</tr>
<tr>
<td>5. Climate action, environment, resource efficiency and raw materials</td>
<td>3,081</td>
</tr>
<tr>
<td>6. Inclusive, innovative and reflective societies</td>
<td>1,309</td>
</tr>
<tr>
<td>7. Secure societies</td>
<td>1,695</td>
</tr>
</tbody>
</table>

Science with and for society

| Spreading excellence and widening participation                                      | 462     |

The European Institute of Innovation and Technology (EIT)

| Non-nuclear direct actions of the Joint Research Centre                              | 816     |


Most of the financing activities are instrumented as competitive tenders in “Horizon 2020” managed by the European Commission with pre-established priorities in the respective working programmes which are previously published.

The calls for proposals have, in general, fixed launch and closing dates (generally comprising between three and four months) and can refer to a certain priority and/or area of action of “Horizon 2020”.

Based on these premises, the Working Programme of “Horizon 2020” approved by the Commission for 2014-2015 focuses its interest on the following areas:

- Personalizing health and welfare services.
- Food security.
- Blue growth: unblocking the potential of seas and oceans.
- Smart cities and communities.
- Competitive low-carbon energy.
- Energy efficiency.
- Mobility for growth.
- Waste: a source of raw-material recycling, reuse and recovery.
8. EU aid and incentives

— Water-related innovation: boosting its value for Europe.
— Overcoming the crisis: new governance ideas, strategies and structures for Europe.
— Disaster resistance: safeguarding and securing society, including adaptation to climatic change.
— Digital security.

In general, any European enterprise, university, research center or legal entity that wishes to develop a R&DEi project whose content is consistent with the lines and priorities stipulated in any of the pillars of “Horizon 2020” may participate in the calls.

To be able to participate in most of the actions included in this programme, it is developed through consortium projects, which must involve at least three independent legal entities, each one established in a different EU Member State or associated state.

Nonetheless certain exceptions are provided, such as research initiatives “on the frontiers of knowledge” of the European Research Council (ERC), coordination and support initiatives and mobility and training initiatives, in which legal entities or individuals can participate on an individual basis.

In any case, the working plans or programmes under the calls for proposals may stipulate terms additional to those mentioned above, depending on the nature and objectives of the initiative in question.

Lastly, in order to apply for funding for any R&DEi project a proposal must be submitted in a previously published call for proposals. Calls for proposals, as well as all documents related thereto, in which submission deadlines and forms are indicated, are posted on the participant portal made available on the website of the European Commission, through which participants can access to the electronic system for submitting proposals.

Normally a potential participant in “Horizon 2020” has two forms of taking part in a proposal: (i) based on his own idea (either as coordinator of the project or by participating individually in the instruments which so permit); or, on the contrary, (ii) by participating in a consortium led by a third party.

Schematically, the basic steps to take from the time the idea arises until the project becomes a reality would be:
8. EU aid and incentives

For more information on “Horizon 2020” as well as on the calls for proposals, please check the Participant Portal and the “Horizon 2020” online manual on the following website of the European Commission (www.ec.europa.eu).

8.6.2. Other Research and Innovation Programmes

Parallel to “Horizon 2020”, the European Commission extends funding opportunities through additional programmes of significance in the context of the European Research and Innovation Strategy.

This section includes two programmes with differentiated objectives and targets.

The COST (European Cooperation in Science and Technology) programme was initiated in 1971 and is one of the oldest European framework programmes supporting cooperation among scientists in all of Europe in different areas of research. On the other hand, the EURATOM, (European Atomic Energy Community) programme arose under the Treaty of the same name, with a view to coordinating the research programmes of Member States in the peaceful use of nuclear energy.

1. COST Program

The COST (European Cooperation in Science and Technology) programme is the first, as well as one of the largest, intergovernmental European networks for the coordination of European scientific and technical research and currently involves 36 countries and four reciprocity agreements (with Australia, new Zealand, Argentina and South Africa).
The programme is targeted at researchers who work (i) in universities and research centers, regardless of size, both public and private, in any of the 35 COST countries or Israel (collaborating State); (ii) in any technological or scientific field; and (iii) provided that they have an original and innovative idea.

Its objective is to strengthen scientific and technical research in Europe, financing the establishment of cooperation and interaction networks between researchers, organized around a specific scientific objective.

The programme functions through networks known as COST Actions, which are established at the initiative of researchers without pre-defined thematic priorities. At least five participants from different COST countries must join together in order to apply for an Action.

The projects selected will receive funding for activities previously established in the joint working programme, for a term of 4 years, to carry out the following networking activities:

- Scientific meetings of working groups.
- Workshops and seminars.
- Short-term Scientific Missions (STSMs).
- Training workshops and scientific conferences.
- Dissemination publications and activities.

Source: www.eshorizonte2020.es
8. EU aid and incentives

COST calls for proposals are permanently open, with two submission deadlines per year (March and September). The procedure for selection and grant of aid is carried out in accordance with the following scheme.

Source: www.eshorizonte2020.es

Spain is one of the countries which is most active in COST, since it is present in approximately 300 actions, which makes it number three in the ranking of countries with the highest degree of participation.

The representative of Spain in the COST program (delegate in the committee of senior officials, CSO, and COST National Coordinator, CNC) is the Ministry of Economy and Competitiveness through the Subdirectorate-General of International Relations and with Europe (SGRIE).

Each country’s participation in COST actions:
8. EU aid and incentives

Graphic 10
COUNTRY’S PARTICIPATION IN COST ACTIONS

Source: www.eshorizonte2020.es
8. EU aid and incentives

2. EURATOM program

EURATOM energy research activities are carried out under the treaty with the same name, which in 1957 established the European Atomic Energy Community (EURATOM). EURATOM is legally separated from the European Community and has its own Framework Research and Training Programme, that is managed by the common Community institutions and regulated in Council Regulation (EURATOM) No 1314/2013 of 16 December 2013 on the Research and Training Programme of the European Atomic Energy Community (2014-2018) complementing the Horizon 2020 Framework Programme for Research and Innovation.

Although Member States retain most competencies in energy policy, whether based on nuclear or other sources, the EURATOM Treaty has achieved an important degree of harmonization at European level. It legislates for a number of specific tasks for the management of nuclear resources and research activities.

The general Objective of the EURATOM programme, with a budget of €1,603,329 for the full period (2014-2020) is to pursue nuclear research and training activities with an emphasis on continuous improvement of nuclear safety, security and radiation protection, notably to potentially contribute to the long-term decarbonization of the energy system in a safe, efficient and secure way.

This objective is implemented through:

— Indirect actions targeted as:
  - Supporting safety of nuclear systems.
  - Contributing to the development of safe, longer term solutions for the management of ultimate nuclear waste.
  - Supporting the development and sustainability of nuclear expertise and excellence in the Union.
  - Supporting radiation protection and development of medical applications of radiation.
  - Moving towards demonstration of feasibility of fusion as a power source.
  - Laying the foundations for future fusion power plants.
  - Promoting innovation and industrial competitiveness.
  - Insuring availability and use of research infrastructures of pan-European relevance.

— Direct actions focused on:
  - Improving nuclear safety.
  - Improving nuclear security.
8. EU aid and incentives

- Increasing excellence in the nuclear science base for standardization.
- Fostering knowledge management, education and training.
- Supporting the policy of the Union on nuclear safety and security.

EURATOM is supplementary to “Horizon 2020” since both have the same rules on participation. Under “Horizon 2020” there is also a possibility of carrying out trans-actions within the EURATOM programme and between the EURATOM programme and “Horizon 2020” through co-funding and externalization.

8.7. Community initiatives in favor of corporate finance

The Community initiatives aimed at favoring corporate finance include most notably the COSME programme and the Gate2Growth initiative:

1. **COSME Programme**

The COSME (Competitiveness of Enterprises and Small and Medium-sized Enterprises) programme is an UIE programme which represents a part of the former CIP (Competitiveness and Innovation Program) and targets its activity at supporting SMEs through various finance mechanisms.

COSME is the EU programme for the Competitiveness of Enterprises and SMEs which helps entrepreneurs and small and medium-sized enterprises to begin to operate, access financing and internationalize, in addition to supporting the authorities in the improvement of the business environment and boosting economic growth in the European Union. It is regulated in Regulation (EU) nº 1287/2013 of the European Parliament and of the Council, of 11 December 2013, establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014-2020) and repealing Decision nº 1639/2006/EC.

This programme continues the achievements of the Competitiveness and Innovation Programme (CIP) in force during the 2007-2013 period, not only in its objectives but also in its actions, except for those referring to innovation, included in the “Horizon 2020”.

COSME has a budget of approximately €2.3 billion and supplements the policies of the EU Member States in their support of SMEs, helping to strengthen the competitiveness and sustainability of the Union’s enterprises and encouraging entrepreneurial culture.

The programme’s objectives are:

- **To improve access to finance for SMEs** in the form of equity and debt through financial intermediaries.
- **To improve access by enterprises to markets**: The Enterprise Europe Network will provide support services aimed at facilitating the expansion of enterprises inside and outside the European Union and will fund international industrial cooperation with a view to reducing the differences between the EU and its main commercial partners.
8. EU aid and incentives

— To improve the general conditions for the competitiveness and sustainability of enterprises, in particular SMEs, including in the tourism industry.

— To promote entrepreneurship and business culture: to develop the entrepreneurial abilities and attitudes, especially among new entrepreneurs, youth and women.

In addition to supporting internationalization, competitiveness and entrepreneurial culture, COSME is, above all, a financial instrument which will make it possible to improve a SME’s access to financing, since more than 60% of the programme’s total budget (€1.4 billion) is earmarked for this purposes.

The allocation of these funds is managed by the intermediary entities and bodies of each country that have been previously selected by the FEI. These bodies will be in charge of launching the financial products they have selected, in order to offer them to the SMEs, so that they can benefit from the programme’s aid and, accordingly, they will also develop the financial instruments contained therein.

The promotion and dissemination of COSME among the business sector depends on the active participation of the nearly 600 members of the Enterprise Europe Network, in 54 countries, which, in addition to furnishing information on European financing, help enterprises to develop their businesses on new markets and to license new technologies.

In Spain there are 9 nodes which provide support throughout the national territory:

— GALACTEA PLUS: Galicia; Principality of Asturias; Cantabria and Castilla y León.

— Basque Enterprise Europe Network: Basque Country.

— ACTIS: La Rioja; Navarra; Aragón; Castilla La Mancha and Extremadura.

— MADRI+D: Madrid Autonomous Community

— CATCIM: Cataluña.

— SEIMED: Valencia and Murcia.

— BALEARS EUROPA: Balearic Islands.

— CESEAND: Andalucía.

— EEN CANARIAS: Canary Islands.

For more information on the COSME programme and the calls open in Spain, see the following websites:

— www.ec.europa.eu

— www.ipyme.org
2. **Gate2Growth initiative**

The *Gate2Growth* initiative (www.gate2growth.com) is a one-stop shop for innovative entrepreneurs seeking financing. It also offers investors, intermediaries and innovation service-providers, a community for sharing knowledge and good practice.

The initiative incorporates all knowledge acquired through the implementation of previous pilot programs, some of the most noteworthy of which are the I-TEC project, the LIFT project and the FIT project.

One of the most notable characteristics of this initiative is that it acts as a meeting point for innovative entrepreneurs, innovation professionals and potential investors. In order to do so, it offers the following tools and services, among others:

---

**For innovative entrepreneurs:**

- Business plan preparation tool package.
- Business plan diagnostic.
- Discussion forums.
- News and events.
- Investor search, identification and matching service.
- Seminars and workshops.
- Entrepreneur clubs.
- Access to a network of local intermediaries.

**For innovation professionals and potential investors:**

- Exchange of good practices.
- Career development opportunities.
- A library of good practices.
- Half-yearly workshops on various issues.
- Professional development through exchange of personnel, access to experts, training courses, etc.

Particularly noteworthy is the fact that various exchange and collaboration networks have been created within the framework of the *Gate2Growth* initiative, aimed at improving compliance with the initiative’s objectives, including most notably: I-TecNet (for venture capital investors), the G2G Incubator Forum (for technological development), the G2G Finance Academia (for innovation experts and entrepreneurship trainers), etc.

On the other hand, together with initiatives such as the one analyzed, business financing initiatives according to activity sector are also available at Community level.
9. Compatibility

9. COMPATIBILITY

As a general rule, the compatibility of these different incentives depends on the specific regulations governing each one, some of which identify certain incompatibilities (either absolute or up to certain limits), whereas others make no reference to this point and, therefore, it may be assumed that theoretically there is no incompatibility.

In general, without limitation and notwithstanding the legislation applicable in each specific case, the general situation in relation to compatibility is as follows:

9.1. General State initiatives

9.1.1. Training

In principle, there are no incompatibilities with other types of aid.

9.1.2. Employment

In principle, there are no incompatibilities with other types of aid. However, taken in conjunction with other incentives, this aid cannot exceed 60% of the social security cost of each contract created under these programs.

9.2. State incentives for specific industries

These incentives are compatible with the other types of aid, but they cannot exceed (in terms of net subsidy) the limits set by the EU for incentives in certain areas.

9.3. Regional incentives

9.3.1. Granted by the State

In principle, no investment project will be able to receive additional financial or industry subsidies (of any nature or from any granting agency) if the maximum percentage stated in each Royal Decree of demarcation is exceeded, since both types of aid are combined with the regional aid received for the project when computing the related ceilings. If these internal limits are exceeded under an EU regulation, the related EU ceilings established thereunder must be respected at all times.

9.3.2. Granted by Autonomous Communities and Municipalities and Municipal Authorities.

The general limit applicable to regional and industry financial aid also covers these incentives.

9.4. EU aid and incentives

These are, in principle, compatible with other types of aid, with the specific limitations described above.

In fact, EU funds habitually finance many of the incentives (industry and regional) described in previous sections.
### 9. Compatibility

<table>
<thead>
<tr>
<th>Level of grant</th>
<th>Where to apply</th>
<th>When to apply</th>
<th>How to apply</th>
<th>On-line information</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>EU</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EIB</td>
<td>EIB Spanish intermediary entities (banks, etc.)</td>
<td>No specific rules.</td>
<td>Ask intermediaries.</td>
<td><a href="http://www.eib.org/">http://www.eib.org/</a></td>
</tr>
</tbody>
</table>
Table 28 (cont.)

<table>
<thead>
<tr>
<th>Level of grant</th>
<th>Where to apply</th>
<th>When to apply</th>
<th>How to apply</th>
<th>On-line information</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>R&amp;D and TI Programs</strong></td>
<td>European Commission General Directorate of Science, Research and Development.</td>
<td>See rules on each program.</td>
<td>See rules on each program and Regulation 1291/2013.</td>
<td><a href="http://cordis.europa.eu/fp7/home_es.html">http://cordis.europa.eu/fp7/home_es.html</a></td>
</tr>
<tr>
<td><strong>STATE</strong></td>
<td></td>
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9. Compatibility

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</tr>
</thead>
</table>

**AUTONOMOUS COMMUNITIES AND, MUNICIPALITIES AND MUNICIPAL AUTHORITIES**

<table>
<thead>
<tr>
<th>Main types of aid</th>
<th>Maximum limits on subsidies and loans</th>
<th>Effective amounts granted</th>
<th>More information from</th>
<th>On-line information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loans with low interest and long maturities and grace periods</td>
<td>Up to 50% of the project cost (75% for Trans-European networks). Available as co-financing with national funds.</td>
<td>Varies greatly depending on project.</td>
<td>Local Credit Bank. EIB.</td>
<td><a href="http://www.eib.org/">http://www.eib.org/</a></td>
</tr>
<tr>
<td>Guarantees, venture capital</td>
<td>See comments in the corresponding paragraphs.</td>
<td>See comments in the corresponding paragraphs.</td>
<td>EIB.</td>
<td><a href="http://www.eib.org/">http://www.eib.org/</a></td>
</tr>
<tr>
<td>Subsidies</td>
<td>Up to 80% of the project cost. Available as co-financing with national funds.</td>
<td>50% of project cost.</td>
<td>Ministry of Employment and Social Security.</td>
<td><a href="http://www.empleo.gob.es/index.htm">http://www.empleo.gob.es/index.htm</a></td>
</tr>
<tr>
<td>Subsidies</td>
<td>Up to 100% of the project cost. Available as co-financing with national funds.</td>
<td>50% of project cost.</td>
<td>European Commission General Directorate of Science, Research and Development. Center for Industrial Technological Development (CDTI)</td>
<td><a href="http://www.cdti.es/">http://www.cdti.es/</a></td>
</tr>
</tbody>
</table>
### 9. Compatibility

<table>
<thead>
<tr>
<th>Main types of aid</th>
<th>Maximum limits on subsidies and loans</th>
<th>Effective amounts granted</th>
<th>More information from</th>
<th>On-line information</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Subsidies</strong></td>
<td>Up to 60% of the project cost.</td>
<td>Up to 20% of the project cost.</td>
<td>Secretariat-General of Industry and SMEs.</td>
<td><a href="http://www.minhap.gob.es/es-ES/Paginas/Home.aspx">http://www.minhap.gob.es/es-ES/Paginas/Home.aspx</a></td>
</tr>
<tr>
<td><strong>Subsidies</strong></td>
<td>€210 and €300 per m² of installed collection area.</td>
<td>Depends on type of facility.</td>
<td>Institute for Energy Diversification and Saving (IDAE).</td>
<td><a href="http://www.idae.es/">http://www.idae.es/</a></td>
</tr>
<tr>
<td><strong>Refundable loans, subsidies or a combination of the two</strong></td>
<td>In the case of refundable advances, it may not exceed 75% of the project cost.</td>
<td>Depends on type.</td>
<td>Ministry of Economic Affairs and Competitiveness.</td>
<td><a href="http://www.idi.mineco.gob.es/">http://www.idi.mineco.gob.es/</a></td>
</tr>
</tbody>
</table>
### Table 28 (cont.)

#### SUMMARY TABLE: GRANTS AND INCENTIVES TO INVESTMENT

<table>
<thead>
<tr>
<th>Main types of aid</th>
<th>Maximum limits on subsidies and loans</th>
<th>Effective amounts granted</th>
<th>More information from</th>
<th>On-line information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subsidies and loans</td>
<td>Depends on type.</td>
<td>Depends on type.</td>
<td>ICAA.</td>
<td><a href="http://www.mecd.gob.es/portada-mecd/">http://www.mecd.gob.es/portada-mecd/</a></td>
</tr>
</tbody>
</table>
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Published 2015

This guide was researched and written by Garrigues on behalf of ICEX-Invest in Spain.

This guide is correct to the best of our knowledge and belief at the date indicated below. It is, however, written as a general guide, so it is necessary that specific professional advice be sought before any action is taken.

Madrid, March 2015
Since 2012, Spanish labor legislation has been subject to different modifications mainly to modernize and make flexible the labor market, as well as to adapt the law to the existing economic circumstances. The most significant and ambitious has been Law 3/2012, of July 6, 2012, on urgent measures to reform the labor market, which was intended to establish a clear labor and employment law framework that contributed to more efficient management of employment relationships and facilitated job creation and stable employment. Likewise, amongst other relevant laws, stands out Law 14/2013 of September 27, 2013 on support to entrepreneurs and their internationalization, that established measures to encourage multiactivity and self-employment, and the entry of investment and talent in Spain.
Guide to business in Spain

Labor and Social Security regulations

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7. Worker representation and collective bargaining 21
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1. Introduction

1. INTRODUCTION

Employment contracts are generally regulated by the provisions of Legislative Royal Decree 1/1995, of March 24, approving the Workers’ Statute (WS).

A major characteristic of Spanish labor legislation is that important employment issues can be regulated through collective bargaining, by means of collective labor agreements, that is, agreements signed between workers’ representatives and employer representatives that regulate the employment conditions in the chosen sphere (areas within a company, company-wide or industry-wide).

Labor legislation has adapted in recent years to the special economic circumstances through the approval of various laws, the most significant and ambitious being Law 3/2012, of July 6, 2012, on Urgent Measures to Reform the Labor Market, which aims to establish a clear labor and employment law framework that will contribute to more efficient management of employment relationships and facilitate job creation and stable employment, Law 14/2013 of September 27, 2013 on support to entrepreneurs and their internationalization, establishing measures in relation to encouraging multiactivity and self-employment, and also measures to encourage the entry of investment and talent in Spain and Royal Decree-Law 16/2013, of December 20, 2013, establishing measures to boost stable contracts, employability of workers and flexibility in the organization of the work.
2. Contracts

2. CONTRACTS

2.1. General aspects

This section deals with the main aspects to be considered when hiring workers in Spain.

In general, discrimination in hiring or in the workplace on the grounds of gender, marital status, age, race, social status, religion or political ideology, membership of a labor union or otherwise, or on the basis of the different official languages in Spain is prohibited.

The minimum employment age is 16 years old and there are certain special rules applicable to the employment of persons under the age of 18 (who, for example, cannot work overtime or at night).

2.2. Types of contract

Contracts can be made verbally or in writing, unless there are express provisions that require a written contract (for example, temporary contracts, part-time contracts and training contracts). If this formal requirement is not met, the contract is understood to be permanent and full-time, unless evidence is provided to the contrary.

Companies must provide the workers’ statutory representatives (if any) with a basic copy of all contracts to be made in writing (except for senior management contracts). The hiring of workers must be notified to the Public Employment Service within ten days of the contracts being made.

There are various different types of contract, including indefinite-term, temporary, fixed-term, training, distance work and part-time contracts.

The Ministry of Employment and Social Security has set up via the website of the National Public Employment Service, a virtual assistant for employment contracts which, based on four basic types of employment contracts (indefinite-term, temporary, training and work-experience contracts), suggests and prepares the type of employment contract that best suits the characteristics of each new hire.

The principal features of these types of contracts are explained below.

2.2.1. Fixed-term contracts

Spanish legislation sets out specific grounds for the execution of fixed-term or temporary contracts.

All temporary contracts must be made in writing and must specify the reason for their temporary nature in sufficient detail. Otherwise, or if the ground for the temporary contract does not truly correspond to one of the legally-established grounds, the contract will be deemed to be made for an indefinite term, unless evidence of its temporary nature is provided.
2. Contracts

If the fixed-term employment contract is made for a term of more than one year, the party intending to terminate the contract must serve notice at least fifteen days in advance or, as the case may be, give the advance notice established in the applicable collective labor agreement.

<table>
<thead>
<tr>
<th>Type</th>
<th>Ground</th>
<th>Term</th>
<th>Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract for project work or services</td>
<td>Performance of a specific independent and self-contained project or service within the company’s business.</td>
<td>In principle, uncertain. It will depend on the time taken to perform the project or service, with a maximum of 3 years, which may be extended for a further 12 months under a nationwide industry collective agreement or under an industry collective agreement of a more limited scope.</td>
<td>The temporary grounds for the contract must be stated clearly and precisely. For contracts entered with after 2015, termination of this contract currently entitles, the employee to receive severance equal to 12 days’ salary per year worked. When the maximum periods established have elapsed, workers will acquire the status of indefinite-term employees of the company. When workers have been hired for more than 24 months within a 30-month period, with or without interruption, for the same or different position at the same company or group of companies, under two or more temporary contracts, whether directly or through temporary employment agencies, using the same or different types of fixed-term contract, the contract will be automatically converted into an indefinite-term contract.</td>
</tr>
<tr>
<td>Casual contract to cover temporary demand for production</td>
<td>To meet market demand or backlogs or work or orders.</td>
<td>Maximum 6 months within a 12-month period (may be extended under an industry-wide collective labor agreement to a 18-month period but may not exceed 3/4 of that period in length, or the maximum term of 12 months).</td>
<td></td>
</tr>
</tbody>
</table>
### TYPES OF TEMPORARY CONTRACTS

<table>
<thead>
<tr>
<th>Type</th>
<th>Ground</th>
<th>Term</th>
<th>Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract of first youth employment</td>
<td>To acquire the first professional experience.</td>
<td>Minimum length of 3 months and up to 6 months which can be extended by a sector-wide CBA up to 12 months.</td>
<td>These contracts are regulated by the provisions applicable to contracts to cover temporary demand for production. The employees must be up to 30 years old, unemployed and must not have professional experience or it must be less than 3 months. The contract can be entered into full time or part-time as long as the work time is at least 75% of the work time of a comparable employee.</td>
</tr>
<tr>
<td>Relief contract</td>
<td>To substitute workers entitled to return to their job due to a statutory provision, or the provisions of a collective labor agreement or individual agreement.</td>
<td>From the beginning of the period until the return of the substituted worker or expiry of the term established for the substitution.</td>
<td>One of the formal requirements is that the contract must state the name of the substituted worker and the grounds for the substitution.</td>
</tr>
</tbody>
</table>
## 2. Contracts

### 2.2.2. Training contracts

<table>
<thead>
<tr>
<th>Contract</th>
<th>Purpose</th>
<th>Term</th>
<th>Other information of interest</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Work experience contract</strong></td>
<td>Hiring of university graduates or workers with higher or advanced vocational training qualifications (first degree, master’s degree or doctorate) or officially recognized equivalent qualifications, or workers holding a vocational qualification certificate (<em>certificado de profesionalidad</em>) entitling them to work in their profession.</td>
<td>Minimum of 6 months and maximum of 2 years. Sick leave, leave due to risk during pregnancy, maternity leave, leave for adoption or fostering, leave due to risk during breastfeeding and paternity leave all toll the duration of the contract.</td>
<td>As a general rule, no more than 5 years may have elapsed since completion of the relevant studies, or 7 years if the contract is made with a disabled worker. The minimum salary is 60% (during first year) and 75% (during second year) of the fixed salary established in the collective labor agreement for a worker with a similar or identical position.</td>
</tr>
<tr>
<td><strong>Trainee and apprenticeship contract</strong></td>
<td>Contract targeted at young people who lack the occupational qualifications recognized by the vocational training system or education system required for a work experience contract for the position or occupation for which the contract is made.</td>
<td>Minimum of 1 year and maximum of 3 years. Term may be modified by a collective labor agreement but may not be less than 6 months or more than 3 years. Sick leave, leave due to risk during pregnancy, maternity leave, leave for adoption or fostering, leave due to risk during breastfeeding and paternity leave all toll the duration of the contract.</td>
<td>Although there are special cases, as a general rule, this contract is aimed at workers of between 16 and 25 years of age (while the Spanish unemployment rate remains above 15%, the upper age limit is extended to 30 years). This age limit is not applicable where the contract is with disabled workers or socially excluded personnel. Compensated employment at a company must be alternated with training activities at a vocational training center or educational center. Part-time contracts cannot be made. Workers cannot work overtime (except to prevent or repair extraordinary and urgent damage), at night or in shifts.</td>
</tr>
</tbody>
</table>
2. Contracts

2.2.3. Part-time contracts

Employment contracts may be full-time or part-time. A part-time contract is defined as a contract in which a number of hours of work has been agreed with the worker per day, week, month or year which is less than the working hours of a “comparable full-time worker”, that is, a full-time worker at the same company and workplace who performs identical or similar work.

Part-time workers have the same rights as full-time workers, although at times, according to their nature, such rights will be recognized proportionally, according to the time worked.

Part-time workers cannot work overtime, except to prevent or repair losses and other urgent and extraordinary damages.

However, supplementary hours (hours worked in addition to those agreed in the contract, the performance of which is agreed beforehand) can be carried out. Supplementary hours may not exceed 30% of ordinary working hours (except where they are increased up to 60% in a collective labor agreement).

However, the employer is allowed to offer the employee supplementary hours, which are voluntary, which may not exceed 15% of the ordinary hours of the employment contract (30% if agreed in the applicable collective labor agreement).

The total ordinary hours and supplementary hours may not exceed the statutory limit for part-time work.

2.2.4. Distance work (telework)

A distance work or telework arrangement may be reached provided it is formalized in writing (whether in the initial contract or a subsequent agreement).

Where work is predominantly carried out at the worker’s home or a place chosen by the worker, it is considered as distance work.

2.2.5. Indefinite-term employment contract in support of entrepreneurs

This is a new type of full-time or part-time, indefinite-term employment contract available to companies with less than 50 workers. It may be used until the Spanish unemployment rate falls below 15%.

The contract carries a trial period of one year and may not be used by companies that have dismissed workers on objective grounds held to be unjustified or implemented collective layoffs in the preceding six months. This contract is also eligible for tax incentives and reductions in social security contributions for certain groups of workers, provided that the company employs the worker for at least 3 years and that the level of employment reached at the company using this contract is maintained for at least one year from the date of the contract.

(For further information on the requirements to be met to qualify for reductions, see section 2 on State Incentives for Training and Employment in Chapter 4.)
2. Contracts

2.3. Trial period

Employers can assess a worker’s abilities by agreeing on a trial period during which the employer or the worker can freely terminate the contract without having to allege or prove any cause, without prior notice and with no right to any indemnity in favor of the worker or the employer.

Where a trial period is agreed (provided that the worker has not performed the same functions before at the company under any type of employment contract, in which case the trial period would be null and void), it must be put in writing. Collective labor agreements may establish time limits for trial periods which, as a general rule and in the absence of any provision in the collective labor agreement, cannot exceed:

- Six months for college and junior college graduate specialists.

- Two months for all other employees. At companies with fewer than twenty-five employees, the trial period for employees who are not college or junior college graduate specialists cannot exceed three months.

- One month in the case of temporary fixed-term employment contracts agreed for a time-period of less than six months.

Moreover, training contracts, indefinite-term employment contract in support of entrepreneurs and special employment contracts (domestic workers, senior managers, among others) have their own specific trial periods.
2. Contracts

2.4. Working hours

The following table summarizes the fundamental legislation governing working hours:

<table>
<thead>
<tr>
<th>Item</th>
<th>Regulation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum working hours</strong></td>
<td>The maximum working hours are those agreed in collective labor agreements or individual employment contracts. In general, the maximum working week is 40 hours of time actually worked, calculated on an annualized average basis, and the irregular distribution of working hours throughout the year may be agreed. In the absence of any agreement, the company may distribute 10% of the working hours on an uneven basis.</td>
</tr>
<tr>
<td><strong>Overtime</strong></td>
<td>Overtime is time worked in excess of the maximum ordinary working hours. Paid overtime may not exceed 80 hours per year. Overtime can be taken as time in lieu within four months of the date on which the overtime was worked. Overtime is generally voluntary.</td>
</tr>
<tr>
<td><strong>Rest periods/public holidays/vacation/paid leave</strong></td>
<td>A minimum of one and a half days off per week is mandatory, which may be accumulated by periods of up to 14 days. Official public holidays may not exceed 14 days per year. Workers are entitled to a minimum vacation period of 30 days, and cannot be paid in lieu of that period. Workers are entitled to paid leave in certain circumstances, such as marriage, performance of union duties, performance of unavoidable public or personal duties, breastfeeding, birth of children, relocation of main residence, serious illness or accident, hospitalization or death of relatives up to the second degree of kinship, etc.</td>
</tr>
<tr>
<td><strong>Reduction in working hours</strong></td>
<td>Workers may be entitled to a reduction in their working hours in certain cases, for example: to directly care for children under 12 or family members who cannot take care of themselves, and during the hospitalization and continuing treatment of a child in their care with cancer or any other serious illness that entails a long hospital stay and who requires direct, continuing and full-time care, until the child reaches 18 years.</td>
</tr>
</tbody>
</table>
2. Contracts

2.5. Wages and salaries

The official minimum wage is established by the Government each year and amounts to €648.60 per month or €9,080.4 per year for persons over 18 years of age (including 12 monthly and 2 extra payroll payments) for 2015.

However, the minimum wages for each job category are usually regulated in collective labor agreements.

Salaries cannot be paid at intervals of more than one month.

At least two extra payroll payments must be paid each year: one at Christmas and the other on the date stipulated in the relevant collective labor agreement (generally before the summer vacation period). Thus, an employee’s gross annual salary is usually spread over 14 payroll payments; however, the prorating of the extra payroll payments within the 12 ordinary monthly installments can be agreed on in a collective labor agreement.
3. Material modifications to working conditions

3. MATERIAL MODIFICATIONS TO WORKING CONDITIONS

Employers may make material modifications to the working conditions of their employees (working hours, timetable, salary, functions, among others) provided that there are proven economic, technical, organizational or production-related grounds and that the legally provided procedure is followed (15 days’ advance notice where individual workers are affected or a consultation period with the workers’ representatives in the case of collective modifications).

There is also a specific procedure to opt out of the working conditions established in the applicable collective labor agreement (whether at industry or company level) on economic, technical, organizational or production-related grounds. In this case, since the conditions were established by collective bargaining, a consultation period must be followed. The agreement must establish the new working conditions applicable at the company and their duration, which may not extend beyond the moment at which a new collective labor agreement applies at the company.
4. Termination of employment contracts

4. TERMINATION OF EMPLOYMENT CONTRACTS\(^3\)

4.1. Dismissals

An employment contract may be terminated for a number of reasons which normally do not give rise to any dispute, such as mutual agreement, expiration of the contractual term, death or retirement of the employee or of the employer, and so on.

In the event of termination by the employer, there are three main grounds for dismissal of an employee:

- Collective layoff.
- Objective grounds.
- Disciplinary action.

\(^3\) www.empleo.gob.es
4. Termination of employment contracts

The following table summarizes the grounds and main features of the various types of dismissal:

<table>
<thead>
<tr>
<th>CAUSES OF DISMISSAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dismissal</td>
</tr>
<tr>
<td><strong>Collective layoff</strong></td>
</tr>
<tr>
<td>Grounds: Economic, technical, organizational or production-related grounds, whenever these affect, in a 90-day period, at least:</td>
</tr>
<tr>
<td>▪ The entire payroll, if more than 5 workers are affected and the activity of the company ceases entirely.</td>
</tr>
<tr>
<td>▪ 10 workers at companies with less than 100 employees.</td>
</tr>
<tr>
<td>▪ 10% of the employees at companies with between 100 and 300 workers.</td>
</tr>
<tr>
<td>▪ More than 30 workers, at companies with 300 or more employees.</td>
</tr>
</tbody>
</table>

Definition of legal grounds:

- **Economic:** where a negative economic situation transpires from the results of the company, in cases such as current or expected losses, or a persistent decline in ordinary revenues or sales. In all cases, the decline will be deemed persistent if for three consecutive quarters the level of ordinary revenues or sales in each quarter is lower than the figure recorded in the same quarter of the preceding year.
- **Technical:** where there are changes in the methods or instruments of production, among others.
- **Organizational:** where there are changes in the personnel working methods and systems or in the manner of organizing production, among others.
- **Production-related:** where there are changes in the demand for the products or services that the company intends to place on the market, among others.
4. Termination of employment contracts

Table 4 (cont.)

<table>
<thead>
<tr>
<th>Objective grounds</th>
<th>Legal grounds</th>
<th>Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Ineptitude of the worker coming to light or not foreseen until after being hired by the company.</td>
<td>• Inability of the worker to adapt to changes made to his job. Before dismissing the worker, employers must offer the worker a training course to facilitate adaptation to such changes. Workers cannot be dismissed until a minimum period of two months has elapsed since the changes were made or the training was completed.</td>
<td>• The employer must serve at least 15 days’ advance notice in writing on the worker (or pay the corresponding salary).</td>
</tr>
<tr>
<td>• In case of economic, technical, organizational or production-related reasons (see definition of the reasons under collective layoff).</td>
<td>• Intermittent absences from work, even where justified, accounting for 20% of the working hours in 2 consecutive months, provided that the total absences in the preceding 12 months accounted for 5% of working hours or 25% in any 4 months out of a 12-month period.</td>
<td>• Severance (20 days’ salary per year worked, up to a maximum of 12 months’ salary) must be made available to the worker at the same time the written notice of dismissal is served.</td>
</tr>
<tr>
<td>• Intermittent absences from work, even where justified, accounting for 20% of the working hours in 2 consecutive months, provided that the total absences in the preceding 12 months accounted for 5% of working hours or 25% in any 4 months out of a 12-month period.</td>
<td>• In indefinite-term contracts arranged directly by public authorities or by not-for-profit entities to implement public plans and programs for want of the appropriate allocation of funds to enable the contracts to continue.</td>
<td></td>
</tr>
</tbody>
</table>
4. Termination of employment contracts

<table>
<thead>
<tr>
<th>Dismissal</th>
<th>Legal grounds</th>
<th>Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Disciplinary action</strong></td>
<td><em>Serious and culpable</em> breach by the worker:</td>
<td>• The employer must serve written notice of disciplinary dismissal, stating the grounds and the effective date of dismissal.</td>
</tr>
<tr>
<td></td>
<td>- Repeated and unjustified absenteeism.</td>
<td><strong>If a workers’ representative or labor union delegate is dismissed, a disciplinary procedure in which all parties are heard (expediente contradictorio) must be followed. If the worker is a labor union member, the union delegates should be granted a hearing. These safeguards may be increased by collective agreement.</strong></td>
</tr>
<tr>
<td></td>
<td>- Insubordination or disobedience.</td>
<td><strong>If these formalities are not met, a further dismissal may be made in a period of twenty days by paying the employee the salary accrued in the meantime, with effect as of the date of the new notice.</strong></td>
</tr>
<tr>
<td></td>
<td>- Physical or verbal abuse towards the employer.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Breach of contractual good faith or abuse of trust.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Willful reduction in job performance.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Habitual drug or alcohol abuse which adversely affects job performance.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Harassment by reason of race or ethnic origin, religion or beliefs, disability, age or sexual orientation, and sexual or gender harassment towards the employer or persons working at the company.</td>
<td></td>
</tr>
</tbody>
</table>
4. Termination of employment contracts

4.2. Classification of the dismissal

A worker dismissed on any objective or disciplinary ground may appeal the decision made by the employer before the labor courts, although a conciliation hearing must first be held between the worker and the employer to attempt to reach an agreement. This conciliation hearing is held before an administrative mediation, arbitration and conciliation body.

The dismissal will be classified in one of the three following categories: justified, unjustified or null.

Table 5
CATEGORIES OF DISMISSAL

<table>
<thead>
<tr>
<th>Classification</th>
<th>Events</th>
<th>Effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Justified</td>
<td>Conforming to law.</td>
<td>Disciplinary dismissal: validation of the dismissal, meaning the worker is not entitled to severance pay. Objective dismissal: payment of 20 days’ salary per year worked, up to a limit of 12 months’ salary.</td>
</tr>
</tbody>
</table>
| Unjustified    | No legal ground exists for the dismissal or the procedure followed is incorrect. | The employer may choose between:  
  • Reinstating the worker, in which case the worker will be entitled to back pay accrued from the date of dismissal until the notification of the decision or until the worker found a new job, if this occurred prior to the decision.  
  • Terminating the contract, by paying severance of 33 days’ salary per year worked, up to a maximum of 24 months’ salary (for contracts formalized before February 12, 2012, severance will be calculated at 45 days’ salary per year of service for the time worked up to such date and at 33 days’ salary per year of service for time worked thereafter, case in which the severance can be no more than 720 days of salary, unless the severance corresponding to the period prior to February 12, 2012 results in an amount of days above, case in which this shall be the maximum severance, notwithstanding the 42 monthly installments cap. If the dismissed worker is a workers’ representative or a union delegate, the choice will rest with the worker and back pay will accrue in all cases. |
4. Termination of employment contracts

Table 5 (cont.)

<table>
<thead>
<tr>
<th>Classification</th>
<th>Events</th>
<th>Effects</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Null</strong></td>
<td>• The alleged ground is a form of discrimination.</td>
<td>• Immediate reinstatement of the worker.</td>
</tr>
<tr>
<td></td>
<td>• It implies a violation of fundamental rights.</td>
<td>• Payment of salaries not received.</td>
</tr>
<tr>
<td></td>
<td>• It affects pregnant workers, during the period of holding in abeyance of the contract due to maternity or paternity, risk during pregnancy, adoption or fostering, reduction in working hours to care for children or relatives or for breastfeeding, and, in certain circumstances, female workers who have been the victims of gender violence. It also affects workers who have gone back to work after the period of holding in abeyance of the contract due to maternity, adoption or fostering, or paternity has ended, provided that no more than nine months have elapsed since the date of birth, adoption or fostering of the child.</td>
<td></td>
</tr>
</tbody>
</table>
5. Senior management contracts

5. SENIOR MANAGEMENT CONTRACTS

Special rules apply to certain types of employee, including most notably the special senior management labor relationship governed by Royal Decree 1382/1985, of August 1, 1985.

A senior manager is an employee who has broad management authority in relation to the company’s general objectives and exercises that authority independently and with full responsibility, reporting only to the company’s supreme governing and managing body.

The working conditions of senior managers are subject to fewer constraints than those for ordinary employees and, as a general rule, the parties (employer and senior manager) have ample room for maneuver in defining their contractual relationship.

The following provisions are established in relation to the termination of senior management employment contracts:

- Senior managers’ contracts can be terminated without cause by serving notice at least 3 months in advance, in which case they are entitled to severance pay of seven days’ pay per year worked, up to a maximum of six months’ pay, unless different terms of severance have been agreed on.

- Alternatively, a senior manager can be dismissed on any of the grounds stipulated in general labor legislation (objective grounds, disciplinary action). If the dismissal is held to be unjustified, the senior manager is entitled to 20 days’ pay in cash per year worked, up to a maximum of 12 months’ pay, unless different terms of severance have been agreed on.

- In addition, the law establishes certain grounds on which the senior manager can terminate his or her contract and receive the agreed-upon severance pay and, failing that, the severance pay established for termination due to employer withdrawal.

- Senior manager may freely withdraw from their contracts by serving at least three months’ advance notice.

Although the statutory severance for senior managers is currently lower than that for ordinary employees, in practice, senior management contracts usually provide for severance payments that are higher than the statutory minimum.
6. Contratación con empresas de trabajo temporal (ETT)

6. CONTRACTS WITH TEMPORARY EMPLOYMENT AGENCIES

Under Spanish law, the hiring of workers in order to lend them temporarily to another company (the user company) may only be carried out by duly-authorized temporary employment agencies (ETT) and in the same scenarios in which temporary or fixed-term contracts can be made, including work-experience and apprenticeship contracts.

Therefore, the hiring of workers through ETTs can only be used in specific cases and is expressly prohibited in the following cases:

- To replace workers on strike at the user company.

- To perform work and activities subject to regulation because they pose a particular hazard to health or safety (such as jobs which involve exposure to ionizing radiation, carcinogenic, mutagenic or reprotoxic chemicals, or to biological agents).

- Where the company has abolished the job positions it intends to fill by unjustified dismissal or on the grounds provided for termination of the contract unilaterally by the worker, collective dismissal or dismissal on economic grounds in the twelve months immediately preceding the hiring date.

- To lend workers to other temporary employment agencies.

Workers hired in order to be loaned to user companies will be entitled, during the period they provide services at the user company, to the basic working conditions and terms of employment (remuneration, working hours, overtime, rest periods, nighttime work, vacation and public holidays, among others) they would have enjoyed, had they been hired directly by the user company for the same position. The remuneration of the loaned workers must include all economic components, fixed and variable, linked to the position to be filled in the collective labor agreement applicable at the user company.

In addition to temporarily loaning workers to other companies, ETTs can also act as placement agencies where they meet the legal requirements to do so.

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5 www.empleo.gob.es
7. Worker representation and collective bargaining

7. WORKER REPRESENTATION AND COLLECTIVE BARGAINING

Workers are represented by labor unions. At company level, workers are represented by directly-elected representatives (workers’ delegates or works committees, which may or may not belong to a union) and by labor union representatives (workplace union branches and union delegates representing a labor union at the company).

Employers are not obliged to have workers’ representatives if workers have not requested union elections. However, if requested by the workers, employers are obliged to hold union elections and appoint such representatives on the terms provided by law.

In general, the function of directly-elected workers’ and labor union representatives is to receive certain information specified in the Workers’ Statute in order to monitor compliance with labor legislation. They are entitled to participate in negotiations prior to the execution of collective procedures (such as material changes to working conditions, collective layoffs, etc.) and to request the issue of reports prior to full or partial relocation of facilities, mergers or any other modification to the legal status of the company, among others.

In addition, unions (within a company) or directly-elected workers’ or labor union representatives can negotiate collective labor agreements with the employers’ association (in the first case) or with the company (in the second case).

Collective labor agreements are agreements executed between the workers’ representatives and the employers’ representatives to regulate working conditions and terms of employment and are binding on the parties.
8. Non-employment relationships

8. NON-EMPLOYMENT RELATIONSHIPS

8.1. Economically dependent self-employed workers

Although this is not strictly an employment matter, brief reference should be made to Law 20/2007, of July 11, 2007, on the Self-Employed Workers’ Statute, which regulates the concept of economically dependent self-employed workers.

This concept defines independent professionals (self-employed workers) who pursue an economic or professional activity for profit, habitually, personally, directly and predominantly for one individual or legal entity, known as the client, on which they depend economically because they receive from that client at least 75% of their income from work performed and from economic or professional activities. Certain requirements must be met simultaneously by self-employed workers if they are to be treated as economically dependent self-employed workers.

The above law establishes specific regulations on the terms on which self-employed workers provide services to their clients.

8.2. Internships without the statutory employment rights at companies

There are a number of cases in which a person can carry on activities at a company without such activities being treated as employed work:

- External academic placements for university students, defined as training completed by university students and supervised by their universities, with a view to enabling students to apply and supplement the knowledge acquired in their academic training.

- Internships without the statutory employment rights at companies or business groups that enter into agreements with the Public Employment Service, aimed at young people (between 18 and 25 years of age) who, due to their lack of work experience, have difficulty finding employment. These internships can be taken by people in the above age group who have not had an employment relationship or other type of work experience of more than three months in the same activity, and may last between three and nine months. Interns will receive a grant from the company of at least 80% of the monthly Public Multi-Purpose Income Indicator (IPREM) in force at any given time (currently €532.51 per month).
9. Acquisition of a Spanish business

9. ACQUISITION OF A SPANISH BUSINESS

Certain labor law provisions are particularly relevant when acquiring or selling a going concern in Spain. For example, if a business is transferred, both the seller and the buyer are jointly and severally liable in the three years following the transfer for any labor obligations arising prior to the transfer.

When a business is transferred, the new employer is subrogated to the previous employer’s labor and social security rights and obligations, including pension commitments on the terms provided in the specific legislation and, in general, to as many supplementary employee welfare obligations as may have been entered into by the previous employer.

The seller and buyer must inform their respective workers’ representatives in advance of certain aspects of the upcoming transfer. Specifically, the information provided must comprise at least the following:

- Proposed date of transfer.
- Reasons for the transfer.
- Legal, economic and social consequences of the transfer for the workers.
- Envisaged measures with respect to the workers.

If there are no workers’ statutory representatives at the affected companies, the information must be supplied directly to the workers affected by the transfer.

There is also a binding obligation to hold a consultation period with the workers’ statutory representatives where, as a result of the transfer, labor measures are adopted for the personnel affected. The consultation period will address the envisaged measures and their consequences for the workers and must be arranged sufficiently in advance of the date on which such measures are to be implemented.

In the case of business succession or a significant change in ownership, which results in the renewal of the governing bodies or changes to the content and purpose of its core activity, senior management personnel will be entitled to terminate their employment contract within the three months following the occurrence of such changes and to receive severance equal to seven days’ pay in cash per year worked, up to a maximum of six months’ pay, or such severance as may have been agreed on.
In general, from a labor and social security standpoint, the following essential formalities must be performed in order to open a company or workplace in Spain.

### Table 6: ESSENTIAL FORMALITIES

<table>
<thead>
<tr>
<th>Formality</th>
<th>Basic aspects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registration of the company with the Spanish social security authorities (obtainment of a social security contribution account code)</td>
<td>Any company (whether incorporated in Spain or not, and including branches of foreign entities) that intends to hire employees in Spain, shall register within the Spanish Social Security before its employees render their services. In general, companies register with the Social Security General Treasury by submitting the relevant official form and documentation identifying the company (deed of formation, document issued by the Ministry of Finance and Public Administration assigning the tax identification number and stating the economic activity of the company, powers of legal representation of the company, document of affiliation to the collaborator mutual insurance company, among others).</td>
</tr>
<tr>
<td>Notification of hiring of employees</td>
<td>The hiring of employees must be notified for social security purposes once the company has been registered with the social security authorities and before the workers start work. Notifications are generally made electronically, using the RED electronic document submission system.</td>
</tr>
<tr>
<td>Legalization of labor inspection visits book</td>
<td>Employers must have a visits book for each workplace and make it available to the labor and social security inspectors for the recording of any inspections carried out and it must be legalized at the Provincial Labor Inspectorate corresponding to the workplace in question. In the wake of Law 14/2013, of September 27, 2013, to support entrepreneurs and their internationalization, the Electronic Visits Book has been set in place.</td>
</tr>
<tr>
<td>Notification of opening of workplace</td>
<td>The commencement of activities at the workplace must be notified to the labor authorities within 30 days of its opening using the official form provided for such purpose in each Autonomous Community. An occupational risk prevention plan must usually also be attached.</td>
</tr>
</tbody>
</table>
11. Relocation of workers under a cross-border working arrangement within the EU and the EEA

11. RELOCATION OF WORKERS UNDER A CROSS-BORDER WORKING ARRANGEMENT WITHIN THE EU AND THE EEA

Foreign employees temporarily posted to Spain under cross-border working arrangements can maintain the employment contract signed in their country of origin, although a number of minimum working conditions established in Law 45/1999, of November 29, 1999 must be observed.

This Law applies to workers relocated by employers from the European Union, and from the European Economic Area (the EU plus Norway, Switzerland, Iceland and Liechtenstein) for a limited time period in the following cases:

- Within the same company or within a group of companies.
- Under international services contracts.
- When the workers of a temporary employment agency are posted to a client company in Spain.

The only exceptions to the above are in the case of employee relocations during training periods and postings lasting less than eight days, unless they involve workers employed by temporary employment agencies.

The minimum working conditions to be guaranteed by employers in the above countries in accordance with Spanish labor legislation and, regardless of the law applicable to the employment contract, are: (i) working time, (ii) salary (which must be at least the amount provided for the same position under a statutory or regulatory provision or collective labor agreement), (iii) equality of treatment, (iv) the rules on underage work, (v) prevention of occupational risks, (vi) nondiscrimination against temporary and part-time workers, (vii) respect for privacy, dignity, and the freedom to join a union, and (viii) rights of strike and assembly. However, if employees relocated to Spain enjoy more favorable conditions in their country of origin, those conditions will apply.

Employers in such cases must also notify postings to the Spanish labor authorities before the worker starts work and regardless of the duration of the posting (except for those lasting less than eight days).

The legislation on labor infringements and penalties classifies a series of infringements in this connection. Formal defects in notifying the relocation of workers to Spain constitute a minor infringement, while notification of the relocation after it has taken place is classed as a serious infringement. Failure to notify the relocation or any misrepresentation or concealment of the data contained in the notification are considered very serious infringements.

Failure to meet the minimum working conditions mentioned above, which are classified according to the penalties applicable to Spanish employers, are considered administrative infringements.

We will be under situations of local hiring instead of temporary transfers when companies without establishment in Spain hire workers in the country.
11. Relocation of workers under a cross-border working arrangement within the EU and the EEA

Both Regulation 593/2008 of the European Parliament and of the Council of June 17, 2008, on the law applicable to contractual obligations (Rome I) and Article 10.6 of the Civil Code, allows the parties to choose the applicable law, save for any mandatory matters under Spanish law.
12. Visas and work and residence permits

12. VISAS AND WORK AND RESIDENCE PERMITS

EU nationals and their family members may live and work (as employees or self-employed workers) in Spain without needing to obtain a work permit. However, in general they must obtain the relevant EU citizen registration certificate or EU citizen family member residence card.

Non-EU nationals must obtain prior administrative authorization to be able to live and work in Spain.

With the approval of Law 14/2013, of September 27, 2013, to support entrepreneurs and their internationalization, new situations of visas and residence and work permits have been introduced, including the following noteworthy examples:

- Visa and residence permit for investors:

  Non-resident foreigners seeking to enter Spain may apply for the relevant visa, provided they make a significant capital investment in the country. The following cases will be deemed to constitute a significant investment of capital:

  — An initial investment for an amount equal to or greater than €2 million in Spanish public debt instruments, or for an amount equal to or greater than one million euros in shares in Spanish companies or deposits in bank accounts at Spanish financial institutions.

  — The acquisition of real estate in Spain with an investment of an amount equal to or greater than €500,000 per applicant.

  — A business project to be developed in Spain and deemed and evidenced to be of general interest, having regard to compliance with at least one of the following conditions:
    - Creation of jobs.
    - Making of an investment with a relevant socioeconomic impact in the geographic region in which the activity is to be pursued.
    - Relevant contribution to scientific and/or technological innovation.

- Visa and residence permit for entrepreneurs

  Provision is made for an entry and residence visa, as well as a residence permit, for any entrepreneurs pursuing an activity of an innovative nature in Spain with special economic interest for the country, obtaining a favorable report from the central government authorities.

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6 www.empleo.gob.es
www.interior.gob.es
www.exteriores.gob.es

7 We refer to Chapter 2, section 3 on the Tax Identification Number (NIF) and Foreigner Identity Number (NIE) regarding the procedure for obtaining a NIF for directors not resident in Spain.
12. Visas and work and residence permits

When it comes to issuing the relevant assessment on the part of the central government authorities, special regard will be had, on a priority basis, to the creation of jobs in Spain. Moreover, regard will be had:

— To the professional background of the applicant.
— To the business plan, including an analysis of the market, service or product, and the financing.
— To the added value for the Spanish economy, innovation and investment opportunities.

• Visa and residence permit for highly qualified professionals

Applications for this permit may be made by companies who need to recruit foreign professionals to Spain in order to develop a professional or labor relationship, and who fall within one of the following categories:

— Executive or highly qualified personnel, where the company or group of companies meet one of the requirements indicated in Article 71 a) of Law 14/2013 (average headcount during the three months prior to the application of 250 workers in Spain; annual net revenues in Spain in excess of €50 million; gross average annual inbound foreign investment of not less than €1 million in the three years prior to submission of the application; companies with a stock value or position in excess of €3 million; belonging, in the case of Spanish SMEs, to an industry deemed strategic).

— Executive or highly qualified personnel forming part of a business project entailing, alternatively and providing the circumstance alleged is deemed and evidenced to be of general interest:
  
  ■ A significant increase in the creation of direct employment on the part of the company seeking to hire.
  
  ■ The maintenance of employment.
  
  ■ A significant increase in job creation in the industry or geographic region in which the labor activity is to be pursued.
  
  ■ An extraordinary investment with a relevant socioeconomic impact in the geographic region in which the labor activity is to be pursued.
  
  ■ The concurrence of reasons of interest for Spain’s commercial and investment policy.
  
  ■ A relevant contribution to scientific and/or technological innovation.

— Graduates and postgraduates from prestigious universities and business schools.
12. Visas and work and residence permits

• Visa and residence permit for training, research, development and innovation activities

Any foreigners looking to enter Spain and to pursue training research, development and innovation activities at public or private entities may apply for the relevant entry visa or residence permit provided they fall within one of the following categories:

— The research personnel referred to in Article 13 and Additional Provision no. 1 of Science, Technology and Innovation Law 14/2011, of June 1, 2011.

— Scientific and technical personnel performing scientific, development and technological innovation work at Spanish businesses or R&D&E centers established in Spain.

— Researchers taken on under an agreement by public or private research bodies.

— Lecturers hired by universities or higher education and research centers, or business schools established in Spain.

• Visa and residence permit for intra-company transfers

An application for the relevant visa and residence permit may be made in the case of foreigners transferring to Spain under a labor or professional relationship or for professional training reasons, within a company or group of companies established in Spain, provided the following circumstances are evidenced:

— The existence of an actual business activity and, as the case may be, of the business group.

— Graduate qualification or the like or, where appropriate, at least 3 years’ professional experience.

— The existence of a prior, ongoing professional relationship of 3 months with one or more group companies.

— Company documentation evidencing the transfer.

As a general rule, the visas referred to under the concepts introduced by Law 14/2013 will be valid for one year and must be issued by the Spanish Diplomatic Missions and Consulates.

The residence permits also provided for will be issued by the Large Businesses and Strategic Collectives Unit and granted by the Directorate-General of Migration. A decision on the application will be made in not more than twenty days and will be deemed to have been approved by administrative silence.

Residence permits will as a general rule have a one-year term and applications for two-year extensions may be made, provided the conditions giving rise to the right are maintained.

Notwithstanding the above concepts introduced under Law 14/2013, of September 27, 2013, in support of entrepreneurs and their internationalization, the administrative authorizations in place prior to the above Law will continue to apply. A summary of the most relevant examples can be found in the following table:
### Table 7  
**TYPES OF ADMINISTRATIVE AUTHORIZATION:**

<table>
<thead>
<tr>
<th>Authorization type</th>
<th>Scenario</th>
<th>Duration/requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Initial residence and employed work permit</strong></td>
<td>Non-EU nationals intending to work in Spain must obtain a special work visa and a work and residence permit beforehand.</td>
<td>Granted for a period of one year and limited to a specific geographical area and occupation. After the one-year period, initial permits can be renewed for a two-year period. Once renewed, a permit will allow its holder to engage in any type of work anywhere in Spain.</td>
</tr>
<tr>
<td><strong>Residence and self-employed work permit</strong></td>
<td>Non-EU nationals intending to pursue a gainful activity for their own account must obtain a residence and self-employed work permit and the relevant visa.</td>
<td>Granted for a period of one year. After this period, they can be renewed for a two-year period. Where a foreign worker has resided legally and continuously in Spain for five years and has renewed his or her work and residence permits, he or she may obtain a long-stay residence permit.</td>
</tr>
<tr>
<td><strong>Frontier workers</strong></td>
<td>Employed or self-employed work permit for workers residing in the frontier area of a neighboring State to which they return each day. Its validity is restricted to the territory of the autonomous community or city where the worker has his residence.</td>
<td>Initial duration of a minimum of three months and a maximum of one year. It may be extended at the end of the initial period, and each successive renewal may not exceed one year.</td>
</tr>
<tr>
<td><strong>Fixed-term employed work permits</strong></td>
<td>Permitted types of work:</td>
<td>The term of the contract or activity, subject to a one-year limit (except in the case of seasonal permits, which may not exceed 9 months within a period of 12 consecutive months) Non-renewable, except in exceptional circumstances.</td>
</tr>
</tbody>
</table>
| - Seasonal work: maximum of 9 months within a period of 12 consecutive months.  
- Project work or services (assembly of industrial plants, infrastructure, etc.).  
- Senior management, professional sportsmen and women, artistes in public performances, and such other groups as may be determined by legislation.  
- Training and professional work experience. | | |
| **Residence and work of highly qualified professionals in possession of an EU blue card** | Granted to those who provide evidence of higher education qualifications (understood as those deriving from higher education lasting at least three years) or, exceptionally, have a minimum of five years’ professional experience that could be considered comparable. Holders of EU blue cards that have resided for at least eighteen months in another EU country may obtain this authorization. | Duration of one year, renewable for two-year periods, unless a long-stay residence permit is applicable. |
13. Social Security system

13. SOCIAL SECURITY SYSTEM

As a general rule, all employers, their employees, self-employed workers, members of manufacturing cooperatives, domestic personnel, military personnel and civil servants who reside and/or perform their duties in Spain are required to be registered with, and pay contributions to, the Spanish social security system. Even unemployed persons (subject to certain conditions) must pay social security contributions.

There are a number of bilateral social security agreements between Spain and other countries, which regulate the effects on Spanish public benefits of periods of contribution to the social security systems of other States. These agreements also determine the State in which social security contributions are to be paid in cases of relocation and temporary or permanent assignments abroad.

Council Regulations (EC) 883/2004 and 987/2009 on the coordination of social security schemes apply within the European Union, the Economic European Area, and Switzerland and ensure that the workers to whom they are applicable are not adversely affected from a social security standpoint by moving from one Member State to another.

The following bilateral agreements are currently in force:

<table>
<thead>
<tr>
<th>Bilateral Agreements with Spain</th>
<th>Persons to whom it applies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andorra</td>
<td>Any nationality</td>
</tr>
<tr>
<td>Argentina</td>
<td>Any nationality</td>
</tr>
<tr>
<td>Australia</td>
<td>Any nationality</td>
</tr>
<tr>
<td>Brazil</td>
<td>Any nationality</td>
</tr>
<tr>
<td>Canada</td>
<td>Any nationality</td>
</tr>
<tr>
<td>Cape Verde</td>
<td>Spaniards and Cape Verdeans</td>
</tr>
<tr>
<td>Chile</td>
<td>Spaniards and Chileans</td>
</tr>
<tr>
<td>Colombia</td>
<td>Spaniards and Colombians</td>
</tr>
<tr>
<td>Dominican Republic</td>
<td>Spaniards and Dominicans</td>
</tr>
<tr>
<td>Ecuador</td>
<td>Spaniards and Ecuadorians</td>
</tr>
<tr>
<td>Japan</td>
<td>Any nationality</td>
</tr>
<tr>
<td>Morocco</td>
<td>Spaniards and Moroccans</td>
</tr>
<tr>
<td>Mexico</td>
<td>Spaniards and Mexicans</td>
</tr>
<tr>
<td>Paraguay</td>
<td>Any nationality</td>
</tr>
</tbody>
</table>

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8 www.seg-social.es
www.empleo.gob.es

Guide to business in Spain
Labor and Social Security regulations
Finally, the Multilateral Latin American Social Security Agreement is also applicable in Spain, an instrument coordinating the different social security legislation on pensions of the different Latin American States that have ratified it and signed the Implementation Agreement (currently Bolivia, Brazil, Chile, Ecuador, El Salvador Paraguay and Uruguay, as well as Spain).

Workers posted to Spain under the relevant social security agreements or regulations who continue to be subject to the legislation of their country of origin and evidence this by way of the relevant certificate, generally will not be registered with the Spanish social security system for the period envisaged in same, according to the terms of the agreement.

On the contrary, when a worker is employed in Spain to carry out services in this country on a permanent basis, the general rule of registration into the Spanish Social Security System shall apply irrespective of the worker’s nationality.

There are different contribution programs under the Spanish social security system:

1. General social security program.

2. There are other situations included within the general social security program that qualify for special treatment, namely:
   – Artists.
   – Railroad workers.
   – Sales representatives.
   – Bullfighting professionals.
   – Professional soccer players and other professional sportsmen and women.
13. SOCIAL SECURITY SYSTEM

— Agricultural workers.
— Domestic personnel.

3. Special social security programs for:
— Seamen.
— Self-employed workers.
— Civil servants and military personnel.
— Coal miners.
— Students.

Classification under these programs depends on the nature, conditions and characteristics of the activities carried on in Spain.

In principle, employers and their employees will be subject to the general social security program. Under this program, social security contributions are paid partly by the employer and partly by the employee. Personnel are classified under a number of professional and job categories for the purposes of determining their social security contributions. Each category has a maximum and minimum contribution base, which are generally reviewed on a yearly basis. Employees whose total compensation exceeds the maximum base, or does not reach the minimum base, must bring their contributions into line with the contribution base for their respective category.

For 2015, the maximum contribution base will be €3,606 per month for all professional categories and groups and the minimum contribution bases will remain the same than the ones for 2014. Therefore the situation for 2015 under the general social security program (applicable to the great majority of workers) is as follows⁹:

13. SOCIAL SECURITY SYSTEM

Table 9
CONTRIBUTION BASE

<table>
<thead>
<tr>
<th>Category</th>
<th>Minimum Base (Euros/month)</th>
<th>Maximum Base (Euros/month)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineers and graduates</td>
<td>1,056.90</td>
<td>3,606.00</td>
</tr>
<tr>
<td>Technical engineers and assistants</td>
<td>876.60</td>
<td>3,606.00</td>
</tr>
<tr>
<td>Clerical and workshop supervisors</td>
<td>762.60</td>
<td>3,606.00</td>
</tr>
<tr>
<td>Unqualified assistants</td>
<td>756.60</td>
<td>3,606.00</td>
</tr>
<tr>
<td>Clerical officers</td>
<td>756.60</td>
<td>3,606.00</td>
</tr>
<tr>
<td>Messengers</td>
<td>756.60</td>
<td>3,606.00</td>
</tr>
<tr>
<td>Clerical assistants</td>
<td>756.60</td>
<td>3,606.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Category</th>
<th>Minimum Base (Euros/day)</th>
<th>Maximum Base (Euros/day)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class 1 and class 2 skilled workers</td>
<td>25.22</td>
<td>120.20</td>
</tr>
<tr>
<td>Class 3 skilled workers and specialists</td>
<td>25.22</td>
<td>120.20</td>
</tr>
<tr>
<td>Laborers</td>
<td>25.22</td>
<td>120.20</td>
</tr>
<tr>
<td>Workers under 18 years of age</td>
<td>25.22</td>
<td>120.20</td>
</tr>
</tbody>
</table>

The contribution rates applicable to employers and employees under the general social security program in 2015 would be as follows:

Table 10
CONTRIBUTION RATES EMPLOYERS/EMPLOYEES

<table>
<thead>
<tr>
<th></th>
<th>Employer (%)</th>
<th>Employee (%)</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General contingencies</td>
<td>23.6</td>
<td>4.7</td>
<td>28.3</td>
</tr>
<tr>
<td>Unemployment</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• General rule</td>
<td>5.50</td>
<td>1.55</td>
<td>7.05</td>
</tr>
<tr>
<td>• Fixed-term contracts</td>
<td>6.7</td>
<td>1.6</td>
<td>8.3</td>
</tr>
<tr>
<td>Professional training</td>
<td>0.6</td>
<td>0.1</td>
<td>0.7</td>
</tr>
<tr>
<td>Wage Guarantee Fund</td>
<td>0.2</td>
<td>–</td>
<td>0.2</td>
</tr>
<tr>
<td><strong>Total general rule</strong></td>
<td><strong>29.9</strong></td>
<td><strong>6.35</strong></td>
<td><strong>36.25</strong></td>
</tr>
<tr>
<td><strong>Total fixed-term contracts</strong></td>
<td><strong>31.1</strong></td>
<td><strong>6.4</strong></td>
<td><strong>37.51</strong></td>
</tr>
</tbody>
</table>

It includes: indefinite-term contracts (including part-time indefinite-term contracts and indefinite-term contracts for seasonal work), and fixed-term contracts (in the form of training contracts, hand-over and relief contracts and any type of contract made with disabled workers who have been recognized as having a degree of disability of at least 33% of their physical or mental capacity.
The total employer contribution rate is increased by additional percentages relating to the occupational accident and disease contingencies provided for in the State Budget Law which will depend, as a general rule, on the activity of the company, although a common percentage will be applied across the board in the case of some occupations or situations.

Employers deduct the employees’ portion of contributions from their paychecks and pay them over, together with the employer’s portion of contributions, to the social security authorities. Similarly, following the above-mentioned Royal Decree-Law 16/2013 of December 2013, employers must notify the Social Security General Treasury in each settlement period of the amount of all the remuneration items paid to their employees, irrespective of whether or not they are included in the social security contribution base and even if single bases are applicable.

There is a €500 exemption of the company’s social security contributions regarding the general contingencies base per month for full time indefinite contracts signed between March 1, 2015 and August 31, 2016. This exemption is applicable if the specific requirements are met (among others, when hiring indefinite employees increases the indefinite employment level as well as the general employment level in the company) and during a limited timeframe.

Set out below are three practical examples of social security contributions, based on the following premises: graduate employees, with a full-time, indefinite-term contract, who perform exclusively office work, hired between March 1, 2015 and August 31, 2016 (if the base scenario is changed, contributions may vary).

### Table 11

**PRACTICAL EXAMPLES OF SOCIAL SECURITY CONTRIBUTIONS**

<table>
<thead>
<tr>
<th></th>
<th>Rates</th>
<th>Minimum Base</th>
<th>Contribution amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Employee</td>
<td>Employer</td>
</tr>
<tr>
<td>General contingencies</td>
<td>4.70%</td>
<td>€1,056.90</td>
<td>€49.67</td>
</tr>
<tr>
<td>Unemployment</td>
<td>1.55%</td>
<td>€1,056.90</td>
<td>€16.38</td>
</tr>
<tr>
<td>Professional training</td>
<td>0.10%</td>
<td>€1,056.90</td>
<td>€1.06</td>
</tr>
<tr>
<td>Wage Guarantee Fund</td>
<td>0.00%</td>
<td>€1,056.90</td>
<td>€0.00</td>
</tr>
<tr>
<td>Occupational accidents and diseases</td>
<td>0.00%</td>
<td>€1,056.90</td>
<td>€0.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>€66.11</td>
<td>€208.58</td>
</tr>
</tbody>
</table>

\(^{11}\) The employer’s general contingencies contribution amounts have been calculated reducing the minimum base in €500 and applying to that reduced base the corresponding rate.
### Table 11 (cont.)

#### PRACTICAL EXAMPLES OF SOCIAL SECURITY CONTRIBUTIONS

**Example 2: Monthly Salary €2,000**

<table>
<thead>
<tr>
<th>Rates</th>
<th>Base</th>
<th>Contribution amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Employee</td>
<td>Employer</td>
</tr>
<tr>
<td>General contingencies</td>
<td>4.70%</td>
<td>23.60%</td>
</tr>
<tr>
<td>Unemployment</td>
<td>1.55%</td>
<td>5.50%</td>
</tr>
<tr>
<td>Professional training</td>
<td>0.10%</td>
<td>0.60%</td>
</tr>
<tr>
<td>Wage Guarantee Fund</td>
<td>0.00%</td>
<td>0.20%</td>
</tr>
<tr>
<td>Occupational accidents</td>
<td>0.00%</td>
<td>1.00%</td>
</tr>
<tr>
<td>and diseases</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Example 3: Monthly Salary €4,000**

<table>
<thead>
<tr>
<th>Rates</th>
<th>Maximum Base</th>
<th>Contribution amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Employee</td>
<td>Employer</td>
</tr>
<tr>
<td>General contingencies</td>
<td>4.70%</td>
<td>23.60%</td>
</tr>
<tr>
<td>Unemployment</td>
<td>1.55%</td>
<td>5.50%</td>
</tr>
<tr>
<td>Professional training</td>
<td>0.10%</td>
<td>0.60%</td>
</tr>
<tr>
<td>Wage Guarantee Fund</td>
<td>0.00%</td>
<td>0.20%</td>
</tr>
<tr>
<td>Occupational accidents</td>
<td>0.00%</td>
<td>1.00%</td>
</tr>
<tr>
<td>and diseases</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

For their part, executive directors who receive compensation (whether Spanish or foreigners) and who do not have actual control of the company should be included under the general social security program for workers “treated as” employees that are not entitled to unemployment benefit and are not covered by the Wage Guarantee Fund.

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**Footnotes:**

12 The employer’s general contingencies contribution amounts have been calculated reducing the base in €500 and applying to that reduced base the corresponding rate.

13 The employer’s general contingencies contribution amounts have been calculated reducing the maximum base in €500 and applying to that reduced base the corresponding rate.
14. Occupational risk prevention

14. OCCUPATIONAL RISK PREVENTION

Employers must guarantee the health and safety of their employees but without merely complying with legislation and remedying risk situations, meaning that they have an obligation to perform risk assessments, adopt measures in emergency situations, provide protective equipment and to guarantee the health of employees, including pregnant or breastfeeding women (ensuring they do not perform tasks which could put them or their unborn child/baby at risk).

All employers must have a risk prevention service to provide advice and assistance in prevention tasks and employers must appoint one or more workers to take charge of these activities. At companies with less than ten workers, this service may be provided directly by the employer, provided that it habitually pursues its business at the workplace and has the necessary capacity to do so. An external risk prevention service may also be used in certain cases.

Failure to comply with occupational risk prevention obligations may give rise administrative, labor, criminal and civil liability.
This guide was researched and written by Garrigues on behalf of ICEX-Invest in Spain.

This guide is correct to the best of our knowledge and belief at the date indicated below. It is, however, written as a general guide, so it is necessary that specific professional advice be sought before any action is taken.

Madrid, March 2015
Spanish Intellectual Property (“IP”) legislation is consistent with other EU Member States’ IP laws. Spain has ratified the most relevant international treaties in this field, which entails that non-Spanish nationals may obtain protection of their IP rights in Spain, and that Spanish nationals may obtain such protection in virtually every other country in the world.

This chapter describes the different ways existing in Spain to protect IP rights (trade marks, patents, utility models, plant varieties, industrial designs, topographies of semiconductor products, copyright and computer software), also focusing on the legal remedies available against IP infringements.
1. Introduction
2. Trademarks
3. Protection of inventions in Spain
4. Plant varieties
5. Industrial designs
6. Topographies of semiconductor products
7. Copyright
8. Unfair competition
9. Action against infringement of intellectual property rights
10. Appendix
1. Introduction

1. INTRODUCTION

1.1. What is intellectual property?

Intellectual property (IP) guarantees businesses protection of their intangible assets through the legal recognition of exclusive rights in such assets (copyrights in creative works and industrial property rights in industrial assets, such as trademarks, patents, designs etc.). Before launching in a new market, the company must take the necessary steps to ensure that its intangible assets are correctly managed and protected.

| Table 1 |
|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| INTELLECTUAL PROPERTY | Trade secrets | Trademarks ® | Copyright © | Patents-Utility models | Spanish designs | Community designs |
| Duration | It will depend on the policies of the company regarding know-how and confidential information. | 10 years, renewable indefinitely. | 70 years from the death of the author. | Patents: 20 years maximum, renewable annually. Utility models: 10 years maximum, renewable annually. | 5 years extendible up to 25 years. | Unregistered: 3 years Registered: 5 years, renewable for up to 25 years. |

1.2. What is the registration principle?

In Spain, registration at the relevant industrial property office is a prior requirement in order to obtain protection of intellectual property (as we will see, this principle does not govern copyright).

Spain, unlike the United States for example, follows the “first-to-file” system, which means that the first person to apply for registration will have prior rights. Use does not afford any rights against third parties except in the case of well-known marks.

Registration entails payment of the official fees, whose amount will depend on circumstances such as the specific type of right applied for, the number of classes, territory, etc.¹.

¹ Annex I to this chapter includes a list with links to the official fees corresponding to the different types of rights for 2014.
1. Introduction

1.3. What is the territoriality principle?

The principle of territoriality means that the protection conferred by intellectual property rights is only available, in principle, in the country or countries in which registration has been obtained (or in the case of copyright, in the country where protection is sought).

Thus, the registration of a trademark or a patent in the country of origin by the owner does not confer automatic protection in other countries. Consequently protection must be sought through additional registrations in each relevant country.

1.4. How to overcome the limits of territoriality?

In order to make it easier to protect intellectual property rights in different territories, Spain has ratified the main international conventions in this area.

With rare exceptions, international intellectual property treaties allow non-Spanish nationals to protect their rights in Spain, and Spanish nationals to enjoy protection in most other countries. Spain’s membership of the European Union has also favored Spanish legislation to be in line with that of the rest of EU Member States.

1.5. What are the most important conventions signed by Spain?

<table>
<thead>
<tr>
<th>Table 2</th>
<th>CONVENTIONS SIGNED BY SPAIN</th>
</tr>
</thead>
<tbody>
<tr>
<td>International convention</td>
<td>Intellectual property rights regulated</td>
</tr>
<tr>
<td>Agreement on Trade-related aspects of intellectual property rights (TRIPS)</td>
<td>Intellectual Property</td>
</tr>
<tr>
<td>Paris Convention</td>
<td>Industrial Property</td>
</tr>
<tr>
<td>European Patent Convention</td>
<td>Patents</td>
</tr>
<tr>
<td>Madrid Agreement</td>
<td>Trademarks</td>
</tr>
<tr>
<td>Madrid Protocol</td>
<td>Trademarks</td>
</tr>
<tr>
<td>Berne Convention for the Protection of Literary and Artistic Works</td>
<td>Copyright</td>
</tr>
</tbody>
</table>
1. Introduction

1.6. Can intellectual property rights be marketed?

Intellectual property rights are assets, and may therefore be assigned, encumbered or transferred by any means provided by Law.

Licenses are the contracts most frequently used in this area, through which a third party is authorized to use the rights granted in exchange for payment.
2. Trademarks

2. TRADEMARKS

2.1. What is a trademark?

A trademark is an exclusive right in a distinctive sign the main function of which is to distinguish the goods and services of one undertaking from those of its competitors. It also plays an important role in advertising and goodwill consolidation.

2.2. What factors need to be borne in mind to register a trademark in Spain?

1. That it is free to be used.
2. That it is free to be registered.
3. That it has no negative connotations, i.e. it is commercially suitable.

Before marketing goods or services, it is advisable to verify that no identical or similar mark has been registered previously for identical or similar goods or services, since this could prevent the use of the sign in the relevant territory.

After confirming that no prior third-party rights are being infringed, one of the various procedures for obtaining registration should be chosen in order to secure exclusive rights and prevent the mark from being used by other companies. Obtaining registration also involves assessing that the mark is not generic, deceptive, descriptive or contrary to public policy or accepted principles of morality.

2.3. What are the ways of registering a mark in Spain?

• National system.
• International system: Madrid Agreement / Madrid Protocol.
• Community Trademark.

2.4. How do you obtain a Spanish trademark?

By filing an application at the Spanish Patents and Trademarks Office (OEPM).

The application process takes approximately between 8 and 15 months.

Spanish trademarks may consist of words, names or surnames, signatures, numbers and number combinations, slogans, drawings, sounds, colors and three-dimensional shapes, including packaging.

2.5. What checks does the OEPM mark when it receives the application?

The OEPM only examines ex officio whether the trademark falls within absolute grounds for refusal (mainly, that the mark is not generic, misleading, descriptive or contrary to public policy), but does
2. Trademarks

not carry out an examination of relative grounds for refusal, that is, the existence of identical or similar earlier marks registered for identical or similar goods, likely to be confused with the new trademark. Relative grounds for refusal are only examined where the owners of prior marks file an opposition against the trademark application.

In short, the OEPM will not refuse trademarks ex officio based on relative grounds, and instead performs a computer search to notify the holders of prior identical or similar signs, for informative purposes only, of the application, in case they are interested in filing an opposition.

2.6. How long does Spanish trademark registration last?

Trademark registration is valid for 10 years and can be renewed indefinitely for further ten-year periods. However the registration may lapse or be revoked if the trademark is not renewed, if it is not effectively used during an uninterrupted 5-year period, or if it becomes generic or deceptive in connection with the goods and/or services it covers.

2.7. What is an international trademark?

An international trademark is linked to the Madrid system for the international registration of trademarks “Madrid System”, comprising the Madrid Agreement of 1891 and the Madrid Protocol of 1989, and administered by the World Intellectual Property Organization (WIPO), with headquarters in Geneva.

Although known as “international trademarks”, this is not strictly speaking the case since the Madrid system unifies administrative procedures at one sole national office, enabling various national registrations to be obtained, but does not offer protection worldwide.

2.8. How do you obtain an international trademark?

The applicant must designate the countries where it wishes to obtain protection from among those countries that have ratified either the Agreement or the Protocol. WIPO subsequently proceeds to notify the national Offices of the designated countries and if no oppositions are filed pursuant to the national laws of each of the countries concerned within one year (pursuant to the Agreement) or 18 months (pursuant to the Protocol), the international trademark will be registered.

Since April 1, 2004 international trademark applications filed under the Madrid system for the international registration of marks may be processed in Spanish.

The application process usually takes between 12 and 20 months.

2.9. Who can file an international trademark?

International trademarks can only be filed by natural or legal persons who have ties to a State that is party to one or both of the treaties (due to nationality, domicile, or real and effective establishment) and may, on the basis of an application filed at the Trademark Office of such State, obtain an international registration effective in all or some of the countries of the Madrid Union.
2. Trademarks

2.10. What is a Community trademark?

A Community trademark confers its proprietor the right to prevent unauthorized use of the trademark by third parties throughout the entire European Union, as well as the use of identical or similar signs that could generate a likelihood of confusion among consumers.

Therefore, an undertaking that seeks to market its products or provide its services in Europe, does not have to file an application in each EU Member State, but rather is able to obtain one sole Community registration that automatically gives it exclusive rights in all of them.

Another important advantage of the Community trademark is that no evidence of use is required to obtain registration, and use of a mark in any one Member State is sufficient to maintain its validity.

The Community trademark does not replace trademark rights in each Member State. The national, international and Community trademark systems coexist and, in some cases, complement each other.

Community trademark infringement actions are brought before Community trademark courts, which are national courts designated by each of the Member States.

2.11. Who can file a Community trademark?

Any person domiciled or with an establishment in the European Union or in a country which is a party to the Paris Convention, or domiciled in a member state of the World Trade Organization.

2.12. How do you obtain a Community trademark?

The Community trademark is administered by the Office for Harmonization of the Internal Market (OHIM), which is based in Alicante, Spain. The application may be submitted in any of the official languages of the European Union, although the applicant is required to designate a second language out of the OHIM’s five official languages, (German, Spanish, English, Italian and French) which may be used as the language of opposition, revocation or invalidity proceedings.

The application process takes approximately 7 months if there are no oppositions.

2.13. What checks does the OHIM make when it receives the application?

The OHIM only examines marks on absolute grounds for refusal (i.e. it mainly verifies that the mark is not descriptive, generic or deceptive in any of the European Union countries).

However, it does not examine applications ex-officio on relative grounds for refusal, i.e. it will not refuse registration on account of the existence of any earlier trademark registrations in the European Union), but rather it is up to the owners of these registrations to file an opposition against such marks at the OHIM.
2. Trademarks

2.14. Community trademark... and international?

The European Union’s accession to the Madrid Protocol connects the registration procedure of a Community trademark application to the International trademark registration system. Thus, any person based in an EU State may file an application at the OHIM not just to protect his mark as a Community trademark but also as an international trademark in the Member States of the Madrid Protocol.

2.15. How long does a Community trademark last?

10 years. This period can be renewed for further 10-year periods subject to payment of the appropriate fees.
3. Protection of inventions in Spain

3. PROTECTION OF INVENTIONS IN SPAIN

Inventions may be protected in Spanish law through patents and utility models.

3.1. What is a patent?

Patents are exclusive rights granted by the State to the inventor in his invention for a specific term (20 years) on the understanding that once this period has expired, the invention will enter the public domain. Thus society benefits from the technical advantage provided by the invention.

3.2. How can you register a patent in Spain?

In addition to filing a patent application at the OEPM, regional registration systems are also available. Such systems allow the applicant to obtain protection for the invention in one or more countries and each country determines whether or not to protect the patent in its territory pursuant to applicable legislation.

The application process before the OEPM can take a minimum of 30 months.

The patent owner may exploit the invention and prevent third parties from exploiting, marketing, or launching it in the market without consent. While the patent is in force, third parties may only exploit the invention if the owner has granted a license.

3.3. What kinds of inventions are patentable?

In order for an invention to be patentable, it must be new, involve inventive step and be capable of industrial application. Consequently, the three main requirements to obtain a patent are as follows:

1. Absolute novelty.
2. Inventive step.
3. Industrial application.

Scientific discoveries or theories, mathematical methods, literary, scientific, artistic works and any other aesthetic creations, rules and methods of performing a mental act, playing a game or doing business are not considered patentable. Neither is it possible to obtain a patent for inventions that are contrary to public policy, plant varieties (which have their own special legislation) animal breeds, essentially biological processes for the production of plants or animals and the human body.

3.4. Are bio-technological inventions patentable in Spain?

The Spanish Patents Law includes the legal protection of bio-technological inventions, although clear restrictions are established based on ethics and public policy.
3.5. Are pharmaceutical products patentable in Spain?

In Spain both product and process patents are admitted and pharmaceutical products have been patentable since 1992.

Indeed, the inclusion of the “Bolar clause” or “Bolar exemption” in the Spanish Patent Law refers precisely to pharmaceutical products. According to this clause performing within certain time periods the necessary studies, tests and trials to obtain authorization for generic drugs does not constitute patent infringement.

Patents are granted for a period of 20 years from the date on which the application is filed. However, a maintenance fee, which is subject to a gradual annual increase, is due yearly.

Once the 20-year period has lapsed, the subject matter of the patent passes into the public domain and may be used by any third party. The Complementary Protection Certificate for pharmaceutical and phytosanitary products, which has been in force since 1998, extends the patent by up to a maximum of five years for the time it took to obtain the relevant administrative authorization, which is essential in order to market such products.

3.6. What is a European patent?

Since Spain’s ratification of the European Patent Convention (EPC) in 1973, Spain may be designated with a European patent application. European patents are administered by the European Patent Office, based in Munich. Via a single procedure and applying legislation in common (the European Patent Convention), this system allows the registration of a bundle of national patents enforceable in the countries designated by the applicant.

3.7. What is a unitary patent?

In 2012, a new patent system was approved in the European Union, establishing the so called “unitary patent”\(^2\).

According to article 18, the new regulation will be applicable on the date of entry into force of the Agreement on a Unified Patent Court. Italy and Spain have provisionally refused to form part of the system since Spanish and Italian have not been included as working languages.

The unitary patent will be valid automatically from the time it is granted in the remaining 25 EU participating States.

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\(^2\) Regulation (EU) No 1257/2012 of the European Parliament and of the Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection and Regulation (EU) 1260/2012 implementing enhanced cooperation in the area of unitary patent protection with regard to the applicable translation arrangements.
3. Protection of inventions in Spain

An application for a unitary patent will be filed at the European Patent Office (EPO), in Munich. The official languages of the proceedings (and of the unitary patent system in general) will be English, French and German.

The Regulation envisages the creation of a Unified Patent Court with headquarters in Paris, which will be competent to handle both unitary patents, as well as European patents, and will be bound by European Union Law.

3.8. What is the PCT?

Spain has ratified the Patent Cooperation Treaty (PCT) which unifies the initial filing of applications and the performance of search reports which are necessary to determine the novelty of the invention and the inventive step, with a view to reducing costs and simplifying the grant of a patent. However, as opposed to the European patent, registration is granted by each of the relevant national Offices.

3.9. What is a utility model?

A utility model is a form of protection for inventions which although new and with inventive step, only give the subject matter a configuration, structure, or constitution that results in an advantage, appreciable for its use or manufacture, but with a lower standard of inventiveness.

A lower standard of inventiveness is therefore required for utility models than for patents and, unlike patents, utility models require only national and not absolute novelty. They are granted for a non-extendable period of 10 years, and therefore have a shorter term than patents. This system of protection is particularly suitable for protecting tools, objects and devices used for practical purposes. The application process usually takes between 8 and 14 months.
4. Plant varieties

4. PLANT VARIETIES

4.1. What are plant varieties?

Plant varieties constitute a category of intellectual property with a legal status similar to that of patents. A plant variety is a group of plants that are distinguishable from any other group since they have specific features that remain unchanged after repeated propagation processes and can propagate without changing.

In Spain, applications for plant varieties are processed by the autonomous community authorities.

Finally, the Spanish Criminal Code expressly includes the counterfeiting of plant varieties, the unauthorized propagation or multiplication of a plant variety, and the unauthorized use of the name of said varieties as criminal offences, which are punishable with fines, special disqualification and even prison.
5. Industrial designs

5. INDUSTRIAL DESIGNS

5.1. What are industrial designs?

Industrial designs are industrial property rights that protect the aesthetic appearance of goods rather than their functional novelty. Therefore, the owner of an industrial design has exclusive rights in the appearance of the whole or part of a product (in particular, the lines, contours, colors, shape, texture or materials of the product itself or its ornamentation), if it is novel and has individual character.

5.2. What is novelty and individual character?

A design is considered to meet the novelty requirement if no other identical design has been made available to the public beforehand. Two designs are deemed to be identical where they only differ in irrelevant aspects.

As far as individual character is concerned, a design is considered to have individual character if the overall impression it produces on the informed user differs from the overall impression produced by any design that has been made available to the public beforehand.

5.3. How can you obtain protection in a design?

At present there are three procedures through which designs may be protected:

- Spanish system.
- Community designs.
- International system.

5.4. How do you obtain a Spanish design?

Industrial designs are filed at the OEPM. The application process can take approximately between 6 and 10 months.

The most relevant feature includes the so-called “grace period”, which consists of a 12-month period during which the disclosure of the design by its author or a related third party does not jeopardize the possibility of registration by its lawful owner. The aim of this grace period is to grant the owner of the design a term before registration without such term destroying its novelty.

Once the design has been granted, the owner is entitled to use it and to obtain relief should any third party use it after its grant has been published.

5.5. How long does a Spanish design last?

Registration is granted for a period of 5 years from the filing date, renewable for further 5-year periods up to a maximum of 25 years.
5. Industrial designs

5.6. How do you obtain a Community design?

Community designs are protected in the European Union by Council Regulation 6/2002.\(^3\)

The essential feature of the Community design system is the recognition of exclusive rights throughout the EU, via a dual system of protection: registered and unregistered designs. In both cases the design must meet the requirements of novelty and individual character.

A registered community design is filed at the OHIM. The application process is very fast, it can take six days, but there is not a fixed term for third parties opposition.

Once granted confers its owner the exclusive right to use and prevent use of said design by unauthorized third parties.

5.7. How long does a Community design last?

Registration is granted for a period of 5 years from the filing date, renewable for further 5-year periods up to a maximum of 25 years.

5.8. What does an unregistered Community design consist of?

An unregistered Community design is a form of protection under Community legislation, through which rights are acquired automatically without the need for filing, simply by disclosing the products to which the design is applied.

Protection of an unregistered Community design is restricted to a period of three years from the date on which the design was first made available to the public within the EU. These types of designs are particularly advantageous for those commercial sectors, such as the fashion industry, which produce short-lived designs and in which the three-year protection period without the need for registration is sufficient and reasonable.

5.9. How do you obtain an international design?

There is an international registration system consisting of filing the application at the World Intellectual Property Organization (WIPO), pursuant to the Hague Agreement.

Through this treaty nationals of the contracting states of the Hague Agreement can obtain protection for their designs in all those states by filing those designs —or a graphic reproduction pursuant to WIPO requirements— at WIPO’s headquarters in Geneva.

A single application is sufficient to protect the design in the member States, subject to the conditions envisaged in each national legislation.

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5. Industrial designs

The European Union’s accession to the Hague Agreement on January 1, 2008, means that the applicants of an international design may designate the 28 EU Member States with a single application and also base the application for an international design on a Community design. This is aimed at simplifying registration procedures, reducing the costs deriving from the international protection of designs and simplifying the management of such rights.

Spanish is one of the working languages of The Hague System, which means on the one hand that it is an excellent tool for the international protection of Spanish companies’ designs, and on the other acts as an incentive to attract more Spanish-speaking Member States to the System.
6. Topographies of semiconductor products

6. TOPOGRAPHIES OF SEMICONDUCTOR PRODUCTS

6.1. What are topographies of semiconductor products?

Spanish legislation grants a period of protection of 10 years for topographies of semiconductor products, (integrated semi-conductor circuits known as “chips”). The subject-matter of protection is not the integrated circuit itself but the way in which it is physically mounted, that is, the physical arrangement of all its elements.

6.2. How do you obtain topographies of semiconductor products?

In order for the OEPM to grant protection of the semiconductor product, the topography must be the result of the creator’s own intellectual efforts and must not be commonplace in the semiconductor industry, that is, the law requires originality and creativity.

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4 The governing provisions are to be found in Law 11/1988, the result of the transposition to Spanish law of Directive 87/54/EEC of December 16, 1986.
7. Copyright

7. COPYRIGHT

7.1. What is copyright?

Copyright generates various types of rights, economic rights and “moral” rights. Moral rights cannot be waived or assigned and they entitle the author to decide, *inter alia*, whether his work is to be published and to demand acknowledgement as author of the work. Consequently, economic or exploitation rights can be traded and transferred to third parties.

All literary, artistic or scientific works which are original are protected by copyright, in particular, books, music compositions, audiovisual works, projects, plans, graphics, computer programs and databases. The *Copyright Law*\(^5\) also grants related rights to performers, phonogram producers, producers of audiovisual recordings and broadcasting organizations.

7.2. How do you obtain copyright protection?

In Spain, copyright protection is automatic, since it exists from the very moment the work is created. However, it is also possible to register the work on the Copyright Register in order to obtain stronger evidence vis-à-vis third parties.

The application for registration in the Copyright Registry requires payment of the corresponding fees to the Provincial Registry in question. The time for the Registry to issue a decision is approximately 6 months.

7.3. Who owns the rights?

In Spain, the rights are always owned by the author of the work, unless the work was created in the course of an employment relationship, is a collective work or the rights are assigned to a third party.

7.4. How long does copyright protection last?

Copyright protection is granted for 70 years from the death of the author, where the author is a natural person. In those cases in which the author is a legal person, the term of protection is 70 years from January 1 of the year following that in which the work was lawfully published, or following the year of its creation, if the work has not been published.

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\(^5\) In Spain, copyright is governed by Legislative Royal Decree 1/1996 of April 12, 1996. In addition, Spain is party to the Berne Convention for the Protection of Literary and Artistic Works.
8. Unfair competition

8. UNFAIR COMPETITION

8.1. What does unfair competition consist of?

Any conduct objectively contrary to good faith is deemed to be unfair. The amendments introduced by Law 29/2009 significantly extend the scope of consumer protection, whereby in relations between businesses or professionals and consumers, there are two requirements for behavior to be deemed unfair: that the behavior of the business or professional be contrary to professional diligence and capable of significantly distorting the economic behavior of the average consumer. Intellectual property can often be protected via unfair competition legislation.

8.2. What acts are deemed unfair?

Unfair competition torts include acts of confusion, misleading acts and omissions, aggressive acts, acts of denigration, comparison, imitation, exploitation of a third party’s reputation, violation of trade secrets, incitement to breach of contract, infringement of laws relating to discrimination and selling at a loss. The 2009 reform also considers the breach of industry codes of conduct to which businesses have freely adhered, an act of unfair competition.

Unfair competition regulations also include the protection of know-how by deeming unfair the disclosure or exploitation, without the consent of their proprietor, of industrial or business secrets obtained lawfully, in the understanding that they would be kept confidential.
9. Action against infringement of intellectual property rights

9. ACTION AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS

the owner of intellectual property rights may take both civil and criminal action against those that infringe its rights in Spain:

9.1. Civil actions

The procedure for bringing action before the Civil Courts is governed by the Civil Procedure Law, which establishes the ordinary trial as the procedural means for the trademark owner to defend its rights against third parties.

The IP owner whose rights have been infringed may claim:

- The cessation of the infringing acts.
- Damages.
- Seizure of the infringing goods.
- To be awarded the seized objects or their means of production.
- The adoption of necessary steps to prevent the continuation of the infringement.
- Publication of the judgment against the infringer.

The owner of the rights may also seek injunctive relief to ensure the effectiveness of the available actions.

9.2. Criminal actions

Industrial property rights are also covered by criminal law.

In addition to activities related to the marketing, use, manufacture and imitation of inventions and distinctive signs without the IP owner’s consent, the Criminal Code also includes the counterfeiting of plant varieties and parallel imports.

Another aspect that should be underscored is the extension of the grounds for determining that an offense is particularly serious. In this regard the Criminal Code establishes sterner penalties consisting of imprisonment (from one to four years), a fine (from twelve to twenty-four months) and special disqualification from practicing the profession related to the offence committed (for a period ranging from two to five years).
Appendix I
Reference to official fees for 2015

APPENDIX I
REFERENCE TO OFFICIAL FEES FOR 2015

A) Trademarks
   i. National Trademark
   ii. International Trademark
   iii. Community Trademark

B) Patents and utility models
   i. National Patent
   ii. European Patent
   iii. PCT
   iv. Utility Model

C) Industrial designs
   i. Spanish Design
   ii. Community Design
   iii. International Design

D) Topographies of semiconductor products

E) Copyright
## APPENDIX II
### INTELLECTUAL PROPERTY CONVENTIONS

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1. WTO: World Trade Organization.
3. CTM: Community Trademark.
6. E: Non-Member States that have executed extension agreements with the European Patent Organization.
7. O: Observer Governments which should commence negotiations for adhesion within 5 years of becoming observers.
8. Will become a member of the European Union on July 1, 2013.
## INTELLECTUAL PROPERTY CONVENTIONS

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## Appendix II
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1. WTO: World Trade Organization.
3. CTM: Community Trademark.
6. E: Non-Member States that have executed extension agreements with the European Patent Organization.
7. O: Observer Governments which should commence negotiations for adhesion within 5 years of becoming observers.

- Will become a member of the European Union on July 1, 2013
## Appendix II

### Intellectual property conventions

<table>
<thead>
<tr>
<th>Country</th>
<th>IP</th>
<th>Trademarks</th>
<th>Patents</th>
<th>Designs</th>
<th>Copyright</th>
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<tr>
<td></td>
<td>Paris Convention</td>
<td>WTO(^1) (Trip’s)(^2)</td>
<td>Madrid Agreement</td>
<td>Madrid Protocol</td>
<td>CTM(^3)</td>
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In Spain, as in neighboring countries, e-commerce-related activities are currently the object of specific regulation. In transactions involving e-commerce, regard should be had to the legislation on distance sales, advertising, standard contract terms, electronic signatures, data protection, intellectual and industrial property, and e-commerce and information society services, among others. Apart from these specific laws, it is also necessary to examine the general legislation on civil and commercial contracts and, in case of e-commerce addressed to consumers (B2C), the specific regulation on consumers’ protection should also be considered.

E-commerce raises tax issues that can be addressed with difficulty from a purely Spanish perspective. For this reason, the Spanish tax authorities have preferred to wait until a consensus is reached on the measures to be adopted regionally and even worldwide. Fair progress has been made in reaching a consensus on the VAT treatment of “on-line e-commerce”. As for the direct taxation issues, it is foreseeable that any consensus will take the form of a coordinated, uniform interpretation of the various criteria determining the tax treatment of e-commerce, rather than a legislative change. A good example of this is the amendments made to the commentaries on the OECD Model Convention.
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1. Introduction

1. INTRODUCTION

E-commerce-related activities are regulated by diverse rules contained in Spanish legislation. Moreover, a fundamental point to bear in mind when undertaking any initiative in the area of electronic transactions is that the applicable legislation varies depending on the potential recipient of the related offer. Consequently, there is greater leeway for the parties to agree if the transaction takes place between companies (business to business, B2B) than if the commercial dealings are between a company and a private consumer as the final recipient (business to consumer, B2C), since, among others, consumer protection legislation will apply in the latter case.

In the tax sphere, e-commerce raises issues that are difficult to address from a purely Spanish perspective. Perhaps for that reason, the Spanish tax authorities have not seen fit to adopt unilateral measures, preferring to wait until a consensus is reached on the measures to be adopted regionally and even worldwide.
2. Defining regulatory principles

2. DEFINING REGULATORY PRINCIPLES

2.1. Civil and Commercial Legislation

2.1.1. Civil and Commercial Codes

Electronic contracts are fully subject to the rules established by the Spanish Civil Code on obligations and contracts and by the Commercial Code.

Electronic contracts are also subject to EC Regulation 593/2008, of June 17, 2008, on the law applicable to contractual obligations (Rome I) which will apply to contractual obligations in the civil and commercial area in situations involving a conflict of laws.

2.1.2. Distance sales

Equally applicable to electronic sales is the chapter on distance sales contained in the Retail Trade Law 7/1996. This Law defines “distance sales” as sales concluded without the simultaneous physical presence of the buyer and the seller, where the seller’s offer and the buyer’s acceptance are conveyed exclusively by a means of distance communication of any nature and within a distance contract system organized by the seller.

This Law establishes that distance sale offers must contain at least the following:

- The seller’s identity.
- The special features of the product, the price, and the shipping expenses and, if applicable, the cost of using the distance communication technique if it is calculated on a basis other than the basic rate basis.
- The payment method, and form of delivery or types of fulfillment of orders.
- The period for which the offer remains valid and, if applicable, the minimum term of the contract.
- The existence of a right to withdraw or terminate the contract and, if applicable, the circumstances and conditions in which the seller could supply a product of equivalent price and quality.
- The out-of-court dispute resolution procedure, if applicable, in which the seller participates.

In sales of this type, consumers are also afforded a number of rights, such as:

- The need for their express consent to the distance transaction, so that the failure to reply cannot be construed as acceptance of the offer.
- Prohibition on unsolicited shipments, where such shipments include a request for payment.
2. Defining regulatory principles

• The right to withdraw (with exceptions in cases such as the sale of assets subject to financial market rate fluctuations that the seller cannot control) within fourteen calendar days from the receipt of the product, the exercise of which is not subject to any formality or penalty.

However, please note that distance sales in which a consumer takes part are regulated by Legislative Royal Decree 1/2007, of November 16, 2007, approving the Revised General Consumer and User Protection Law and other supplementary laws.

2.1.3. Consumer protection

Whenever e-commerce activities are targeted at consumers, it is also necessary to comply with consumer protection legislation, regulated in Legislative Royal Decree 1/2007, of November 16, 2007, approving the Revised General Consumer and User Protection Law and other supplementary laws.

This Legislative Royal Decree sets out, among others, the prior information requirements, the rules governing unfair conditions of contracts concluded with consumers, and the right to withdraw that consumers have in distance sales (fourteen calendar days).

It should also be noted that Law 22/2007, of July 11, 2007, on the distance marketing of consumer financial services, shall also be taken into consideration when dealing with consumers in the financial sector. The Law specifically regulates the protection granted by the general law to the users of remote financial services by establishing, among others, the generic requirement to provide the consumer with precise and exhaustive information on the financial contract prior to its signature and by granting the consumer a specific right to withdraw from the distance contract previously concluded.

Also, if, in making the contract, there is an intention to incorporate predisposed clauses into a plurality of contracts, regard must be had to Standard Contract Terms Law 7/1998.

In relation to consumer goods sale warranties, the aforementioned Legislative Royal Decree establishes the measures aimed at ensuring a minimum uniform standard of consumer protection. The main innovative feature is the establishment of a free 2-year warranty for consumers on all consumer goods. The Law aims to offer consumers a range of possible remedies when the goods acquired are not in keeping with the terms of the contract, enabling consumers to demand their repair or substitution.

2.1.4. Other applicable regulations

1. In accordance with Law 56/2007, enterprises that provide services of special economic significance to the general public and that are of a certain size are required to provide their users with an electronic means of communication which, through the use of qualified electronic signature certificates, enables them to perform at least the following steps: (a) conclude contracts electronically and amend and terminate them; (b) consult their customer data (including a record of billing covering at least the past 3 years) and the concluded contract, with its general conditions; (c) submit complaints, incidents, suggestions and claims (while
2. Defining regulatory principles

guaranteeing a record of their submission and direct personal assistance); and (d) exercise the rights of access, rectification, cancellation and objection (known as “ARCO” rights) provided for in the data protection legislation.

This requirement applies to enterprises that provide services of special economic significance to the general public provided that they employ more than 100 workers or have an annual turnover (according to the VAT legislation) of more than €6,010,121.04. The enterprises that Law 56/2007 includes in this category are those operating in the following industries: (i) electronic communications services to consumers; (ii) financial services aimed at consumers (banking, credit or payment, investment services, private insurance, pension plans and insurance brokerage); (iii) supplying water to consumers; (iv) supplying retail gas; (v) supplying electricity to final consumers; (vi) travel agencies; (vii) carriage of travelers by road, railway, by sea, or by air; and (viii) retail trade (although for these last-mentioned ones, the electronic means of communication need only enable what is set out in letters (c) and (d) above).

2. Due to their particular importance in electronic commerce, it is worth noting some legal provisions concerning payment services:

a) Payment Services Law 16/2009, of November 13, 2009, which mainly affects the payment transactions that are most commonly used in an electronic commerce environment: transfers, direct debiting and cards, establishing as a general rule that the payer and the payee of the transaction must each bear the charges levied by their respective payment services providers. In any event, in the case of transactions with consumers, the specific legislation (Legislative Royal Decree 1/2007) prohibits the trader from charging the consumer fees for the use of payment methods that exceed the cost borne by the trader for the use of such payment methods.

Lastly, both the Payment Services Law and the consumer protection legislation envisage for distance contracts that, where the amount of the purchase or of a service has been charged fraudulently or incorrectly using the number of a payment card, the consumer may request the immediate cancellation of the charge.

b) The new legislation on interchange fees introduced by Royal Decree-Law 8/2014, of July 4, 2014. This legislation establishes a system of caps on interchange fees in transactions with credit or debit cards in Spain (applying them to POS terminals located in Spain), regardless of the trade channel used (that is, including physical and virtual POS terminals), provided that they require the involvement of payment services providers established in Spain.

The caps applicable on or after September 1, 2014 are as follows:

(i) Debit cards: the interchange fee per transaction may not exceed 0.2% of the value of the transaction, subject to a cap of 7 euro cents. But if the amount does not exceed twenty euros, the interchange fee may not exceed 0.1% of the value of the transaction.
2. Defining regulatory principles

(ii) Credit cards: the interchange fee per transaction may not exceed 0.3% of the value of the transaction. But if the amount does not exceed twenty euros, the interchange fee may not exceed 0.2% of the value of the transaction.

These caps do not affect transactions performed with company cards or withdrawals of cash from automatic teller machines. In addition, three-party payment card systems are excluded from the application of these caps, except for certain cases identified by the legislation.

3. Lastly, worthy of note is Law 29/2009, of December 30, 2009, modifying the legal regime governing unfair competition and advertising in order to enhance consumer and user protection. Special mention should be made of the unfair practice status to be granted to the making of unwanted and reiterated proposals by telephone, fax, e-mail and other means of long-distance communication, unless such proposals are legally justified for the purpose of complying with a contractual obligation. Moreover, when issuing such communications, traders and professionals must use systems that enable consumers to place on record their opposition to continuing to receive commercial proposals from such traders or professionals. Thus, when making such proposals by telephone, calls must be made from an identifiable number.

2.2. Electronic invoicing

Article 88.2 of Value Added Tax Law 37/1992 states that VAT shall be charged through the invoice, on the conditions and with the requirements determined by regulations. A clear indication that the new invoicing regulations approved by Royal Decree 1619/2012, of November 30, 2012, aim to promote electronic invoicing is that they establish the same treatment for electronic invoices as for paper invoices. A new definition is provided for electronic invoice, i.e., an invoice that meets the requirements established in the Royal Decree but which has been issued and received on electronic format.

Therefore, this equal treatment for paper and electronic invoices broadens the possibilities for the supplier to be able to issue invoices electronically without needing to use specific technology to do so.

Moreover, Order EHA/962/2007 issued by the Ministry of Economy and Finance establishes and further develops particular obligations regarding telematic invoicing. That Order clarifies that any Advanced Electronic Signature based on a certain certificate and generated through safe signing procedures will be valid in order to guarantee the authenticity and origin of the bill. The Order also clarifies the legal requirements that electronic invoices issued abroad must meet in order to be validly accepted in Spain.

Since January 15, 2015, there has been an obligation in Spain (by application of Law 25/2013, of December 27, 2013, on the promotion of electronic billing and the creation of a public sector
2. Defining regulatory principles

accounting register of invoices) to issue invoices in electronic format that affects enterprises operating in certain industries (according to a list included in the law) and providing services “of special economic significance” to the general public.

This obligation to issue electronic invoices applies regardless of the contracting channel used (face-to-face or distance, electronic or non-electronic), provided that the customer agrees to receive them or has expressly requested them. However, travel agencies, carriage services and retail trade businesses are only required to issue electronic invoices where the contracting has taken place by electronic means.

In any event, it is the recipient of the invoices who has the power to give his or consent to the issuance and sending of invoices in electronic format and to revoke such consent in order to receive them on paper again. In the absence of consent, the trader should issue and send the invoices on paper.

2.3. Electronic signature

In order to ensure the technical security and legal certainty of business activities that are carried on electronically, Electronic Signature Law 59/2003 was enacted.

This new Law aims to promote more widespread use of electronic signatures as an instrument that generates trust and security in telematic communications, thereby contributing to the development of e-commerce and of the “e-government”.

“Electronic signature” is defined by the Law as a set of data, in electronic form, attached to or associated with other electronic data, which can be used as a method for identifying the signatory. A separate class of electronic signature is the “advanced electronic signature,” which is recognized as a signature which permits the signatory to be identified and the integrity of the data signed to be verified, since it is linked exclusively to the signatory and to the data to which it relates and since it has been created by means that the signatory can keep under his sole control.

The Law includes the concept of “recognized electronic signature”, defining it as an advanced electronic signature based on a certificate recognized and generated through a secure-signature-creation device.

Under the referred Law, both individuals and legal entities can act as signatories. In this way, the Law aims to encourage the placing of orders and issuing of invoices by telematic means, while at the same time safeguarding legal certainty for the entity holding the electronic signature and for the third parties who have dealings with it. However, electronic certificates of legal entities will not alter civil and commercial legislation as regards the provisions governing the concept of the hierarchical or voluntary representative.

Furthermore, the Electronic Signature Law regulates the activity of certification service providers issuing certificates that link signature verification data to a certain signatory. The Government also has a service to publicize information on the certification service providers operating in the market.
2. Defining regulatory principles

Furthermore, in order to be able to offer their services, certification service providers must arrange liability insurance of at least €3 million to cover any risk of liability for damage or loss.

Lastly, Electronic Signatures Law 59/2003 contains provisions regulating the electronic national identity card, which is defined as a recognized electronic certificate intended to popularize the use of secure electronic instruments capable of conferring the same integrity and authenticity as currently surround communications on physical medium.

2.4. Personal data protection

Another aspect that may have e-commerce implications is the possible processing of any personal data in transactions of this nature.

Organic Law 15/1999, of 13 December, on Personal Data Protection, regulates the processing of an individual’s personal data.

The Organic Law applies to “personal data”, meaning any information concerning identified or unidentified individuals. Accordingly, it does not apply to data concerning legal entities; in addition, it does not apply to data concerning individual entrepreneurs or individuals being the contact person of a legal entity where the personal data is used exclusively in a “B2B” framework and where such data is limited to the following: name and surname(s), functions or jobs performed, as well as the postal or e-mail address and professional telephone and fax numbers.

Personal data protection legislation revolves around the following principles:

- The data subject must give prior consent to the processing of his or her personal data, with the exceptions envisaged by the Law.

- The processing of specially protected data (i.e., data referring to ideology, labor union membership, religion, beliefs, ethnicity, health, and sex life) require the data subject’s express consent (in writing in the first four cases).

- The data subject must be informed of a number of matters in relation to the envisaged processing of his or her personal data.

- Personal data may only be processed where they are adequate, relevant and not excessive in relation to the purpose for which they have been obtained.

- Personal data may only be communicated to a third party if the data subject has given his or her prior consent for such purpose, unless such communication is permitted by the Law.

- When the communication is addressed to a third party classified by the Law as a data processor, which provides a service entailing access to such data, prior consent by the data subject is not
2. Defining regulatory principles

required, but the relationship must be regulated in a contract for services that includes a number of provisions established by the Law.

• Data subjects are afforded the rights of access, rectification, cancellation, and opposition to and of the processing of their personal data.

• The creation of personal data filing systems must be previously notified to the Spanish Data Protection Agency\(^2\), the agency in charge of enforcing this legislation.

• The establishment of minor, serious or very serious infringements as a result of breaches of the obligations imposed by this Law, with penalties of up to €600,000.

It should also be noted that communications of data involving the international movement of personal data require the prior authorization of the Director of the Spanish Data Protection Agency, when such data is to be sent to countries without a level of protection comparable to that of Spain, except in a number of specific cases such as, for example, when the data subject gives his or her unambiguous consent to the transfer of his or her data. In this connection, it is assumed that States that are part of the European Economic Area ensure an adequate level of protection. In other cases, a declaration in this connection is required from the EU Commission\(^3\), or a ruling from the Spanish Data Protection Agency, that the data protection offered by the country in question is appropriate.

In relation to penalties, worthy of note is the power of the Spanish Data Protection Agency not to commence, in certain exceptional cases, disciplinary proceedings and, instead, require the party responsible for the offense to evidence that it has taken the corrective measures applicable in each case.

Also of special note are the Regulations implementing Personal Data Protection Organic Law 15/1999, approved by Royal Decree 1720/2007, of December 21. These Regulations include many of the standards and recommendations that the Spanish Data Protection Agency has been issuing in recent years on the practical application of, and ways to execute, the various principles that govern personal data protection. In this respect, the Regulations govern matters such as ways of obtaining consent, in particular where data is processed for marketing purposes, the outsourcing of personal data processing or the way in which data subjects can exercise their rights of access, cancellation, rectification and opposition. The Regulations also include a chapter on the security measures that must be taken by data controllers, regardless of whether the data is processed by automatic or manual means.

\(^2\) www.agpd.es
\(^3\) Up to now, according to different Decisions the European Commission consider that the following countries provide an adequate level of protection: Switzerland, Canada, Argentina, Guernsey, Isle of Man, Jersey, Faeroe Islands, United States entities adhered to “Safe Harbor” principles, Andorra and Israel.
2. Defining regulatory principles

2.5. Intellectual and industrial property and domain names

2.5.1. Intellectual property

The legal protection of intellectual property is hugely important when engaging in e-commerce in the “information society”, since digital content protected by intellectual property (copyright, trademarks, image rights, etc.) constitute the real value added of the internet.

The Copyright Law⁴ establishes in Article 10 that all original literary, artistic or scientific creations expressed by any means or on any medium, whether tangible or intangible, currently known or invented in the future, are copyrightable. Accordingly, all original creations are subject to protection, including graphic designs and source codes of, and information contained on, websites.

Website content will be afforded such protection as pertains to the specific category of the content (graphics, music, literary works, audiovisual, databases, etc.) and, therefore, the person in charge of the website must hold the related rights, either as the original owner (of the collective work under his management or developed by employees) or as a licensee.

In protecting intellectual property, the owner may seek both civil and criminal remedies. The Copyright Law affords the holder of the rights of exploitation the possibility of applying for the cessation of unlawful activities (e.g., a website unlawfully disseminating a protected work could be closed down) and of seeking damages. From a criminal law standpoint, the protection of intellectual property on the Internet is based on Article 270 of the Criminal Code, which imposes prison sentences or fines for crimes against intellectual property.

Directive 2001/29/EC on the harmonization of certain aspects of copyright and related rights in the information society, was implemented in Spain through Law 23/2006, which amends the Copyright Law in order to harmonize the economic rights of reproduction, distribution and public communication (including new forms of interactive on-demand making available of works), with the rest of EU Member States and to adapt the rules governing these rights to the new operating procedures existing in the Information Society. Recently, Spain has placed itself at the forefront of the fight to strengthen copyright protection on the Internet in Europe. The Law 21/2014, of November 4, broadens the powers of the administrative body within the Ministry of Culture (the “Second Section of the Copyright Commission”), strengthening an expedited hybrid procedure of administrative and judicial nature to fast-track action for copyright infringement on the Internet. The purpose of this amendment is to force Internet Service Providers (ISPs) to take down unlawful content and, in some cases, to shut down websites which openly violate copyright legislation (including websites which actively provide lists of links to unlawful content). However, the amendment is not focused on individuals who share unlawful content through “peer to peer” networks.

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⁴ Legislative Royal Decree 1/1996, of April 12, 1996, approving the Revised Intellectual Property Law, regulating, clarifying and harmonizing the legal provisions in force in this area.
2. Defining regulatory principles

Lastly, we must underline the elimination of the private copying levy, applied in Spain until January 1, which required collaboration from manufacturers, distributors and retailers of products “suitable for reproducing copyrighted works”. The former system was replaced in 2012 with a new form of compensation which shall be satisfied directly by the State to the copyright owners. The law 21/2014 consolidates the State-funded system.

2.5.2. Industrial property

When engaging in e-commerce, regard should also be had to industrial property matters. Article 4.c of Patents and Utility Models Law 11/1986 provides that plans, rules, and methods for conducting a business, as well as software, cannot be patented.

2.5.3. Domain names

Another essential issue to take into account is the registration and use of domain names. In this respect, Order ITC/1542/2005 approved the National Plan for Internet Domain Names under the country code for Spain (“.es”). The function of assigning domain names under the “.es” code is performed by the public for-profit entity Red.es.

Order ITC/1542/2005, following international trends, simplified the system for assigning “.es” domain names, which can be requested directly from the granting authority or through an agent.

Thus, second-level domain names under the code “.es” are assigned on a “first come, first serve” basis. This assignment can be requested by individuals or legal entities and entities without legal personality that have interests in or ties with Spain. However, those which coincide with a first-level domain name or with generally known names of Internet terms will not be assigned.

It is also established that domain names under the codes “.com.es,” “.nom.es,” “.org.es,” “.gob.es” and “.edu.es” may be assigned in the third level. The persons or entities that can apply for the domain names will vary according to the codes. Thus, for example, the Spanish Public Authorities and the public law entities can request domain names under the “.gov.es” code.

Furthermore, the National Plan establishes that the right to use a domain name under the “.es” code is transferable provided that the acquiror meets the requirements necessary to own the domain name and that the transfer is notified to the assigning authority.

Also, one of the main features of Order ITC/1542/2005 is the establishment of an extrajudicial body of mediation and arbitration for the resolution of disputes concerning the assignment of “.es” domain names.

2.6. Law 34/2002 on E-Commerce and Information Society Services

Law 34/2002 on E-Commerce and Information Society Services (ECISSA) defines as “information society services” any service provided for a valuable consideration, long-distance, through electronic channels and upon individual request by the recipient, also including those not paid for by the
2. Defining regulatory principles

recipient, to the extent that they constitute an economic activity for the provider. Specifically, the following are deemed to be information society services:

- Contracting for goods and services through electronic means.
- Organization and management of auctions using electronic means or of virtual shopping centers or markets.
- Management of purchases on the network by groups of persons.
- Sending of commercial communications.
- Supply of information through telematic channels.
- Video upon demand, as a service that the user may select through the network and, in general, the distribution of contents upon individual request.

The ECISSA applies to information society service providers established in Spain. In this respect, the provider is considered to be established in Spain when its place of residence or registered office is located in Spanish territory, provided that it coincides with the place where its administrative management and business administration are actually centralized. Otherwise, the place where such management or direction is performed will be considered.

Likewise, the ECISSA will apply to services rendered by providers who are resident or have a registered office in any other State when the services are offered through a permanent establishment located in Spain. Therefore, the mere use of technological means located in Spain to provide or access the service will not of itself determine that the provider has an establishment in Spain.

The above notwithstanding, the requirements of the ECISSA will apply to service providers established in another State of the European Union or the European Economic Area when the recipient of the services is located in Spain and the services affect:

- Intellectual or industrial property rights.
- Advertising issued by collective investment institutions.
- Direct insurance activities.
- Obligations arising from contracts with consumers.
- The lawfulness of unsolicited commercial communications by e-mail.
2. Defining regulatory principles

The ECISSA establishes the basic legal regime for information society service providers and e-mail activities, including:

- The principle of freedom to provide services not subject to prior authorization applies to information society services, except in certain cases. In the case of service providers established in States that do not belong to the European Economic Area, this principle will apply in accordance with the applicable international agreements.

- The following obligations are imposed on information society service providers:
  - To put in place the means to permit the recipients of the services and the responsible bodies to access easily, directly and free of charge, the information on the provider (corporate name, registered office, registration particulars, tax identification number, etc.), on the price of the product (stating if it includes applicable expenses and shipping costs) and on the codes of conduct to which it has adhered.
  - For providers of intermediation services, to cooperate with the responsible authorities in interrupting the provision of information society services or in withdrawing contents.

    Please note that depending on the specific services that these intermediation service providers carry out (access to the internet, e-mail services), they are obliged to furnish certain information such as, for example, the security measures in place, the filters for certain persons to access the site or the responsibility of the users.

- A specific system of liabilities is established for information society service providers, without prejudice to the provisions of civil, criminal and administrative legislation.

- A specific system is established for commercial communications through electronic channels, without prejudice to the legislation in force on commercial, publicity and personal data protection matters. In this regard, commercial communications through electronic channels must be clearly identifiable, stating the individual or corporation for whom they are made, including the word “publi” (advertisement) at the beginning of the message and spelling out the conditions for access and participation, in the case of discounts, prizes, gifts, competitions or promotional games.

  Additionally, advertising or promotional communications sent by e-mail or similar form of communication that have not been previously requested or expressly authorized by the recipients are prohibited. Express consent will not be necessary when there is a pre-existing contractual relationship, provided that the supplier had lawfully obtained the recipient’s contact data and that the commercial communications refer to goods or services of the provider’s own company which are similar to those for which the recipient initially made a contract. In any case, the provider must offer the recipient the possibility to object to the processing of his data for promotional purposes, through a procedure that is simple and free of charge, both at the time the data is collected and in each of the commercial communications sent to him. Where the communications have been
2. Defining regulatory principles

sent by e-mail, that medium shall necessarily include a valid e-mail address where the recipient can exercise this right, it being prohibited to send communications that do not include such address.

- Service providers may use devices for storage and recovery of data on computer terminals of the recipients (commonly known as “cookies”), on the condition that the recipients have given their consent after having received clear and complete information on their use.

Where technically possible and efficient, the recipient may give his consent to the processing of his data through the use of the appropriate parameters of the browser or of other applications, provided that the recipient must configure it during installation or updating through express action for that purpose.

The foregoing will not prevent the possible technical storage or access for the sole purpose of transmitting a communication through an electronic communications network or, to the extent that it is strictly necessary, providing an information society service expressly requested by the recipient.

The Spanish Data Protection Agency can impose monetary penalties to the information society providers for the use of cookies without the proper informed consent from users of an information society service.

- Contracts through electronic channels are regulated, recognizing the effectiveness of the agreements made through electronic channels when consent has been granted and other requirements necessary for their validity are met. Additionally, the following provisions are established for contracts made through electronic channels:

  — The requirement that a document should be placed on record in writing is considered to be met when it is contained on electronic medium.
  — The admission of documents on electronic medium as documentary evidence in lawsuits.
  — Determination of the legislation applicable to the contract made through electronic channels will be governed by the provisions of international private law.
  — Establishment of a series of obligations to be met prior to commencement of the contracting procedures, relating to the information that must be furnished on the formalities for the making of the contract, the validity of offers or proposals of contracts and the availability, if any, of general contracting conditions.
  — Obligation on the offeror to confirm receipt of the acceptance within 24 hours after its receipt, by an acknowledgement sent by e-mail or equivalent means to that used in the contracting procedure which enables the recipient to give such confirmation.
  — Assumption that agreements made through electronic channels in which the consumer participates have been made in the place where the consumer has his customary place of
2. Defining regulatory principles

residence. When these contracts are made between entrepreneurs or professionals, they will be assumed to have been made, in the absence of a provision on the matter, in the place where the service provider is established.

When dealing with agreements entered into with customers, the Revised General Consumer and User Protection Law should be taken into account, in particular in connection with distance sales.

• Recognition of a ground to claim cessation against conduct that contravenes the ECISSA which is detrimental to collective or general consumers’ interests, and promotion of out-of-court settlement of disputes.

• Establishment of minor, serious and gross infringements due to failure to comply with the obligations imposed by the ECISSA, with penalties of up to €600,000.
3. Tax implications of e-commerce in Spain

3. TAX IMPLICATIONS OF E-COMMERCE IN SPAIN

3.1. Problems, general principles and initiatives taken in relation to taxation

Except for Spain’s commitments to the European Union on value added tax (“VAT”), at present there is no tax regime in Spain that specifically regulates the trading of goods and services on the Internet. Therefore, the same taxes and the same rules as those for other forms of commerce apply to e-commerce. This approach is in tune with the principles enunciated by the Spanish Tax Agency in the Report of the Commission analyzing the impact of e-commerce on the Spanish tax system, prepared by the Office of the Secretary of State for Finance.

Below is a list of the basic pieces of VAT legislation emanating from the European Union:


- Council Implementing Regulation (EU) No 282/2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax. This Regulation has been amended by Council Implementing Regulation (EU) No 1042/2013 of 7 October 2013 as regards the place of supply of services.


- Council Regulation (EU) No 967/2012 of 9 October 2012 amending Council Implementing Regulation (EU) No 282/2011, as regards the special schemes for non-established taxable persons supplying telecommunications services, broadcasting services or electronic services to non-taxable persons. Among other matters, this Regulation regulates the existence, starting January 1, 2015, of a single point of electronic contact for suppliers of EU electronic, telecommunications, and broadcasting services which will enable enterprises to declare and pay over the VAT in the Member State where they are established rather than doing so in the customer’s country.

The provisions of these pieces of legislation and their transposition into Spanish law are examined in the section on the indirect taxation of e-commerce.

3.2. Direct taxation

Despite there being no differences in the tax treatment of income obtained electronically, the following chart shows the main potential issues of contention in the area of e-commerce:
3. Tax implications of e-commerce in Spain

Table 1

MAIN CONTENTIOUS ISSUES IN RELATION TO DIRECT TAXATION

| a) The permanent establishment problem |
| b) Legal characterization of the income generated from the sale of goods and services on the Internet |
| c) Determination of taxable income and transfer pricing problems |
| d) Application of the place-of-effective-management rule to determine the tax residence of taxable persons engaging in e-commerce activities |

The most relevant considerations and the progress made in analyzing those issues are summarized below:

3.2.1. The permanent establishment problem

The issue concerns whether the paradigmatic elements of e-commerce, such as a server, a website, etc., can be deemed a permanent establishment (“PE”) in the country where a company supplying a good or service on the Internet is located:

The Commentary published in July 2010 on article 5 of the OECD Model Tax Convention (concerning the definition of permanent establishment) remains unchanged from that published in 2003, in which the elements defining the new forms of commerce were already foreshadowed. Based on the observations made in the Commentary, the following chart shows the scenarios in which a PE can be deemed to exist and those in which it cannot:

Table 2

SCENARIOS FOR A PE

<table>
<thead>
<tr>
<th>Can constitute a PE</th>
<th>Cannot constitute a PE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Server</td>
<td>Software</td>
</tr>
<tr>
<td></td>
<td>Website</td>
</tr>
<tr>
<td></td>
<td>ISP (Internet Service Provider)</td>
</tr>
<tr>
<td></td>
<td>Hosting</td>
</tr>
</tbody>
</table>

The reasons justifying the characterization of a PE in each case are as follows:

- A computer or server can constitute a PE whereas the software used by that computer cannot. This distinction is important because the entity that operates the server hosting the website is normally different from the entity that engages in the online business (hosting agreements).
3. Tax implications of e-commerce in Spain

In order to characterize a server as a PE, regard must be had to the following considerations:

- A server will constitute a fixed place of business only if it is permanent and located in a certain place for a sufficient length of time. What is relevant here is whether it is actually moved from one place to another, rather than whether it can be moved. A server used for e-commerce can be a PE regardless of whether or not there is personnel operating that server, since no personnel is required to perform the operations assigned to the server.

- In determining whether or not the server installed by a given enterprise in a country constitutes a PE, it is particularly important to analyze whether the enterprise engages in business activities specific to its corporate purpose through that server, or whether, on the contrary, it only engages in activities of a preparatory or auxiliary character (such as advertising, market research, data gathering, providing a communications link between suppliers and customers, or making backup copies).

- A website does not, in itself, constitute tangible property and, therefore, cannot be deemed a “place of business,” defined as facilities, equipment, or machinery capable of constituting a PE. ISPs do not generally constitute a PE of enterprises that engage in e-commerce through websites since ISPs are not generally dependent agents of those nonresident enterprises.

3.2.2. Legal characterization of income

The second relevant issue is the characterization of income and, in particular, the possibility that certain goods supplied online may, merely by virtue of the fact that they are protected by intellectual or industrial property laws (such as music, books and, particularly, software), be characterized as generators of royalties and, therefore, be taxable in the country of source.

The Commentaries on the OECD Model Tax Convention characterize as business profits (instead of royalties) almost all payments made for all intangible goods delivered electronically, on the ground that the subject-matter of those transactions are copies of images, sounds or text, rather than the right to exploit them commercially.

Initially, Spain included an observation on the relevant Commentary on the 2003 Model Tax Convention qualifying the treatment of the acquisition of rights to software by arguing that payment for those rights could constitute a royalty. Specifically, Spain considered that payments relating to software were royalties where less than the full rights to it were transferred, either if the payments were in consideration for the use of a copyright on software for commercial exploitation or if they related to software acquired for business or professional use when, in this latter case, the software was not absolutely standardized but somehow adapted to the purchaser.

However, the relevant Commentary on the OECD Model Tax Convention published in July 2008 takes the novel line that payments made under arrangements between a software copyright holder and a distribution intermediary do not constitute a royalty if the rights acquired by the distributor are limited to those necessary for the commercial intermediary to distribute copies of the software. Thus, if it is considered that distributors are paying only for the acquisition of the software
copies and not to exploit any right in the software copyrights (without the right to reproduce the software), payments in these types of arrangements would be characterized as business profits. The Commentary published in July 2010 maintains this position.

In light of this change in the Commentary on royalties in the Model Tax Convention, Spain introduced a qualification in its observations on the Commentary published in July 2008 (which was kept in the Commentary on the OECD Model Tax Convention published in July 2010), indicating that payments in consideration for the right to use a copyright on software for commercial exploitation constitute a royalty, except payments for the right to distribute standardized software copies, not comprising the right to customize or to reproduce them.

Therefore, as acknowledged by the Directorate-General of Taxes in its binding ruling of November 10, 2008 and other subsequent rulings, Spain considers that payments made for the right to distribute standardized software copies are business profits, although it continues to treat as royalties any payments made for the right to distribute software where the software has been adapted. In any case, as was clarified in a binding ruling of November 23, 2010, the transfer, together with the distribution right, of other rights, such as a license to adapt the software being distributed, will mean that the payments are treated as royalties.

It should also be noted that article 13 of the Revised Nonresident Income Tax Law, approved by Legislative Royal Decree 5/2004, of March 5, 2004, treats as royalties amounts such as those paid for the use of, or the right to use, rights in software.

Also, in some tax treaties signed by Spain, income derived from the licensing of software is expressly characterized as a royalty. In this regard, one should note the Supreme Court judgment of March 25, 2010, which defined the licensing of software as a license of the rights to exploit a literary work, although the Court’s definition addressed a situation pre-dating the entry into force of the Spanish legislation specifically listing the items deemed to be royalties. However, in a judgment dated March 22, 2012, the National Appellate Court held that such a definition was no longer possible after the entry into force of the above-mentioned legislation. The Supreme Court confirmed this view in a judgment handed down on March 19, 2013, in which it held that characterization as a literary work is no longer correct after the change in the legislation.

3.2.3. Determination of taxable income and transfer pricing problems

The widespread use of intranets among different companies belonging to multinational groups, and the enormous mobility of transactions over computer networks, create highly complex problems when applying the traditional arm’s-length principle to pricing transactions within groups. This has been accentuated by the increase in transactions between group companies and the downloading of digital content or of free services.

Accordingly, the tax authorities of OECD countries (including Spain) are advocating the development of bilateral or multilateral systems for advance pricing agreements, applying the OECD transfer pricing guidelines to e-commerce. Noteworthy in this regard is the creation of an EU Joint Transfer
3. Tax implications of e-commerce in Spain

Pricing Forum in which, among other matters, non-legislative measures are being proposed to enable a uniform application of the OECD guidelines across the European Union.

3.2.4. Application of the place-of-effective-management rule

Due to the special characteristics of e-commerce (which include easy detachability from location, relative anonymity, and the mobility of the parties involved), the traditional rules on taxation of worldwide income, based on the principles of residence, registered office or place of effective management, are more difficult to apply to taxpayers engaging in e-commerce.

Indeed, the parameters established in the tax treaties for apportioning the revenue powers among States in the event of a conflict (most of them based on the “place-of-effective-management” principle) are exceeded in the context of e-commerce, since the various managing bodies of the same enterprise can be located in different jurisdictions and be totally mobile during the same year. It can therefore be extremely difficult to determine where the enterprise’s place of effective management is situated, and this can lead to double taxation or to no taxation at all.

Although this issue is being studied by international organizations and by the Spanish tax authorities themselves, they have yet to arrive at clear conclusions on how to resolve it. Accordingly, a close watch will have to be kept on progress with the work being done in this area.

3.3. Indirect taxation

It is in the area of VAT where the most relevant coordinated legislative measures have been adopted.

The indirect taxation implications for e-commerce mainly concern “online e-commerce,” a term that refers to products supplied on the Internet in digitized format (books, software, photographs, movies, music, and so on) and downloaded by a user in real time onto his or her computer, having clicked on to the supplier’s website and paid for the products in question (in contrast to offline supplies where products sold on the Internet are subsequently delivered by using conventional means of transportation). In offline e-commerce, where goods are still physically supplied, the traditional VAT concepts apply.

The main VAT issues arising in relation to e-commerce (especially in the area of online e-commerce) are basically the following:

• The definition of “taxable event” as a supply of goods or services and the application of the resultant rules for determining the place of supply.

• The determination of the VAT rates applicable to the different types of e-commerce.

• The adaptation of the formal obligations and management of VAT to the realities of e-commerce and, particularly, the invoicing obligations.
3. Tax implications of e-commerce in Spain

- The problems already raised in relation to direct taxation, regarding the determination of the existence of a fixed establishment and of the effective place of business, are also applicable in the area of indirect taxation. Council Implementing Regulation (EU) No 282/2011 has clarified these concepts, defining them as follows:

  — “Place of establishment of a business”: the place where the functions of the business’s central administration are carried out, i.e., the place where essential decisions concerning the general management of the business are made, the place where the registered office is located or the place where management meets. The Regulation clarifies that if, having regard to the above criteria, the place of establishment of a business cannot be determined with certainty, the place where essential management decisions are made will take precedence. It also clarifies that a postal address cannot be taken to be the place of establishment of a business.

  — “Fixed establishment”: any establishment, other than the place of establishment of a business, with a degree of permanence and a suitable structure in terms of human and technical resources to enable the services supplied it to be received and used for its own needs.

Each of these issues is briefly examined below:

3.3.1. Definition of “taxable event” as a supply of goods or services for the purpose of determining the place of supply

Directive 2002/38/EC was based on the premise that transactions performed electronically are deemed supplies of services:

- Services will be deemed to be electronically supplied services where their transmission is sent initially and received at destination by electronic data processing equipment. The fact that the supplier of a service and his customer communicate by e-mail does not of itself mean that the service performed is an electronically supplied service.

In relation to the concept of “electronically supplied service”, article 7 of Council Implementing Regulation (EU) No 282/2011 further defined it by including a list of services that must be regarded as electronically supplied services and others that are not. In this regard, article 7 established that electronically supplied services are those “delivered over the Internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology.”

Implementing Regulation 1042/2013, to which we refer above because it regulates the new rules applicable from January 1, 2015, has revised the list of electronically supplied services as set out in the following table:
### LIST OF SERVICES SUPPLIED AND NON-SUPPLIED ELECTRONICALLY

<table>
<thead>
<tr>
<th>Electronically supplied services</th>
<th>Services not supplied electronically</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) the supply of digitized products generally, including software and changes to or upgrades of software;</td>
<td>a) radio and television broadcasting services;</td>
</tr>
<tr>
<td>b) services providing or supporting a business or personal presence on an electronic network such as a website or a webpage;</td>
<td>b) telecommunications services;</td>
</tr>
<tr>
<td>c) services automatically generated from a computer via the Internet or an electronic network, in response to specific data input by the recipient;</td>
<td>c) goods, where the order and processing is done electronically;</td>
</tr>
<tr>
<td>d) the transfer for consideration of the right to put goods or services up for sale on an Internet site operating as an online market on which potential buyers make their bids by an automated procedure and on which the parties are notified of a sale by e-mail automatically generated from a computer;</td>
<td>d) CD-ROMs, floppy disks and similar tangible media;</td>
</tr>
<tr>
<td>e) Internet Service Packages (ISP) of information in which the telecommunications component forms an ancillary and subordinate part (i.e., packages going beyond mere Internet access and including other elements such as content pages giving access to news, weather or travel reports; playgrounds; website hosting; access to online debates etc.);</td>
<td>e) printed matter, such as books, newsletters, newspapers or journals;</td>
</tr>
<tr>
<td>f) the services listed in Annex I.</td>
<td>f) CDs and audio cassettes;</td>
</tr>
<tr>
<td>g) video cassettes and DVDs;</td>
<td>g) games on a CD-ROM;</td>
</tr>
<tr>
<td>h) services of professionals such as lawyers and financial consultants, who advise clients by e-mail;</td>
<td>i) teaching services, where the course content is delivered by a teacher over the Internet or an electronic network (namely via a remote link);</td>
</tr>
<tr>
<td>j) teaching services, where the course content is delivered by a teacher over the Internet or an electronic network (namely via a remote link);</td>
<td>k) offline physical repair services of computer equipment;</td>
</tr>
<tr>
<td>l) offline data warehousing services;</td>
<td>m) advertising services, in particular as in newspapers, on posters and on television;</td>
</tr>
<tr>
<td>n) telephone helpdesk services;</td>
<td>o) teaching services purely involving correspondence courses, such as postal courses;</td>
</tr>
<tr>
<td>p) conventional auctioneers’ services reliant on direct human intervention, irrespective of how bids are made;</td>
<td>q) tickets to cultural, artistic, sporting, scientific, educational, entertainment or similar events, booked online;</td>
</tr>
<tr>
<td>r) accommodation, car-hire, restaurant services, passenger transport or similar services booked online.</td>
<td></td>
</tr>
</tbody>
</table>
3. Tax implications of e-commerce in Spain

- The services are deemed to have been supplied in Spanish VAT territory if:
  - The recipient is a trader or professional and his place of business is in Spain.
  - The supplier is established in Spain and the recipient is a non-trader residing in the EU or having an unidentifiable domicile.
  - The services are supplied from outside the EU and the recipient is a non-trader domiciled in Spain.
  - The recipient is a trader or professional, the services are actually consumed in Spain, and the services have not been deemed supplied pursuant to the above rules in the EU, Canary Islands, Ceuta or Melilla.
  - Directive 2006/112/EC provides that starting on January 1, 2015, the electronically supplied services will be taxed in the Member State where the recipient is established, regardless of where the taxable person supplying them is established. Thus, effective that date, where the recipient, including non-traders, is established in Spain, the services will be deemed supplied in Spanish VAT territory.

In this connection, the place of supply of electronically supplied services can be summarized as follows:

<table>
<thead>
<tr>
<th>Supplier</th>
<th>Recipient</th>
<th>Place of Supply</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU / Non-EU</td>
<td>Trader established in Spain</td>
<td>Spain</td>
</tr>
<tr>
<td>EU / Non-EU</td>
<td>Non-EU trader and actual consumption in Spain</td>
<td>Spain</td>
</tr>
<tr>
<td>Spain</td>
<td>Non-trader resident in the EU</td>
<td>Spain</td>
</tr>
<tr>
<td>EU</td>
<td>Non-trader resident in Spain</td>
<td>Spain</td>
</tr>
<tr>
<td>Non-EU</td>
<td>Non-trader resident or domiciled in Spain</td>
<td>Spain (Application of special scheme)</td>
</tr>
</tbody>
</table>

- As regards determining who is the taxable person, it has been decided to fully apply the current legislation (article 84 of the VAT Law), which establishes that:
  - In general, the supplier of services is the taxable person, regardless of where he is established.
  - In special circumstances, the recipient of the services (rather than the supplier) is the taxable person and is obliged to charge the VAT under the “reverse charge mechanism” (where the
supplier is a trader not established for VAT purposes in Spain and the customer receiving the services is a trader or professional established in Spain), notwithstanding the amendments that apply from January 1, 2015 onwards.

Furthermore, in cases where the supplier of the services is not established in the EU and the customer is a final consumer (in business-to-consumer, or “B2C,” transactions), the supplier of the services is the taxable person. However, with a view to simplifying their obligations, suppliers only have to register (electronically) for VAT in one Member State, although they will have to charge the VAT relating to each of the jurisdictions where their customers are located and pay it over (also by telematic means) to the tax authorities of the Member State in which they are registered. Subsequently, that Member State will re-apportion the VAT collected among the other countries.

Non-established traders or professionals that apply this special regime in Spain will be entitled to a refund of input VAT in accordance with the refund procedure for non-established traders, without being subject to the reciprocal treatment requirement generally established in the legislation.

Council Implementing Regulation (EU) No 282/2011 has modified this special regime by introducing certain special VAT management rules in the case of exclusion from the regime, rectification of VAT returns, impossibility of rounding off the VAT payable, etc.

3.3.2. Rules applicable from January 1, 2015

As noted above, Council Directive 2008/8/EC, as fleshed out by Regulation (EU) No 967/2012, introduces specific changes that will apply to electronic services from January 1, 2015 onwards. Specifically, as from that date, services supplied electronically by an EU-established trader to persons who are not traders and are established in a Member State or have their permanent address or usually reside there will be deemed to be supplied in the place where the non-taxable person is established, or where he has his permanent address or usually resides.

In order to implement the above provisions, Implementing Regulation 1042/2013 has introduced the relevant amendments. Accordingly, the Regulation contains provisions:

- To define and update the list of services that are affected by the rules discussed here and to clarify who the supplier is where several traders are involved (e.g. sale of applications).
- To define the place of establishment of the customer (legal person not acting as a trader).
- To clarify –since certain rules already exist in this respect in the Regulation– how to evidence the trader’s status as a recipient.
- To specify the place of actual consumption of the services through presumptions on the customer’s permanent address or residence and the evidence that can be required, if applicable, to rebut them.
- To establish transitional provisions.
3. Tax implications of e-commerce in Spain

The Regulation also address the supply of services through a portal or telecommunications network such as a marketplace for applications, in order to clarify who will be deemed the supplier in these cases.

The Regulation contains a number of provisions aimed at defining the place of business, establishment, permanent address or habitual residence according to the type of customer in order to clarify the application of the place-of-supply rules for supplies of services that depend on these circumstances.

These definitions are kept intact, although a specific rule is added for legal persons who do not act as traders whose place of establishment will be where the functions of their central administration are carried out (place of business) or where they have a permanent establishment that is suitable for receiving or using the services.

As regards determining the location of the recipient, the place-of-supply rules that apply from 2015 are those for supplies to parties acting as final consumers, that is, natural or legal persons not acting as traders.

For these purposes, the supplier may regard the recipient as the final consumer as long as the recipient has not communicated his individual VAT identification number to the supplier but, unlike other supplies of services, the supplier may consider the recipient as the final consumer regardless of whether he has information to the contrary.

In the case of legal persons that have several establishments or of natural persons who have a permanent address other than their habitual residence, the Regulation establishes that:

- For non-trader legal persons the “place of business” prevails on the terms defined in the preceding section.

- For natural persons, priority will be given to their habitual residence (a concept which is already defined in the Regulation in its current wording) unless there is evidence that the service is used at the person’s permanent address.

However, these rules are not sufficient to determine the place of supply of services where the same recipient can access them from several places or by various means. To try to cover the most frequent cases, the Regulation includes specific rules such as the following:

- If the services are supplied requiring the physical presence of the customer (e.g. a wi-fi hot spot or a telephone booth), the services will be taxed at that location. This rule also applies to services supplied by hospitality establishments where they are supplied in connection with accommodation services.

- If the service is supplied on board a ship, aircraft or train, at the place of departure of the transport operation.

- A service supplied through a fixed land line, at the permanent address of the customer where it is installed.
3. Tax implications of e-commerce in Spain

- If it is supplied through mobile networks, at the country identified by the mobile country code of the SIM card.

- If the service requires a viewing card or decoder or similar device (without being supplied through a fixed land line), where the decoder or similar device is located, or if that place is not known, at the place to which the viewing card is sent.

In any other case, at the place identified as such by the supplier on the basis of two items of evidence: billing address, IP address, bank details (e.g. place of demand deposit account), the mobile country code stored on the SIM card, location of the land line, other commercially relevant information.

The presumptions on the place of supply of the service described can be rebutted by the supplier if three of the items of evidence listed in the preceding point determine a different place of supply.

The tax authorities may, in turn, rebut any of the presumptions described where there are indications of misuse or abuse by the supplier.

Lastly, note should be taken of what has been called the “mini one-stop shop” system, similar to the one existing for supplies of services by non-EU traders so as to permit the taxable person to file in the Member State of identification a single return which includes transactions addressed to final consumers of different Member States. In Spain, the form for registering with the system is already available.

3.3.3. Determination of the VAT rates applicable to the various types of e-commerce

In keeping with the view held by the Spanish tax authorities, the standard VAT rate of 21% will apply in all cases, since it is a kind of service for which the VAT Law makes no special provision.

It should be noted that the Directorate-General of Taxes, in a ruling dated March 26, 2010, as well as in a ruling dated July 1, 2011, has clarified that as the Directive does not provide for the application of reduced rates for electronic services, the reduced VAT rate can only be charged for e-books when they are included on physical media. This confirms the stance taken by the Spanish authorities not to apply reduced rates to electronic services even where they involve goods which, when supplied physically, are subject to a reduced VAT rate.

In this regard, the Commission launched infringement proceedings against Member States, such as France, that established reduced rates for e-books. In fact, the European Commission set up an Expert Group on Taxation of the Digital Economy. Specifically, the Group was tasked with analyzing and finding solutions for the distortion of competition that arose from the difference in rates between electronic and physical books. It is worth noting in this connection that the Court of Justice of the European Union, in its judgment of September 11, 2014 (Case C-219/13), concluded that national legislation that subjects books published in paper form to a reduced VAT rate and books published on other physical supports such as CDs, CD-ROMs or USB keys to the standard VAT rate, is not contrary to EU Law, provided that it respects the principle of fiscal neutrality inherent in the common system of value added tax.
3. Tax implications of e-commerce in Spain

3.3.4. Formal obligations and management of taxes

Both the EU and the Spanish tax authorities ascribe to the principle that this form of commerce should not be hindered by the imposition of formal obligations that reduce the speed with which transactions should be performed.

Of particular relevance in this regard are the rules already contained in Council Regulation (EEC) No 1798/2003 on administrative cooperation in the field of value added tax, which, among other matters, provides that individuals and legal entities involved in intra-Community transactions can access the databases kept by the tax authorities of each Member State. This possibility of identifying reliably the status under which the recipient is acting (trader, professional or final consumer) is absolutely decisive for the proper tax treatment of each transaction.

Royal Decree 1619/2012, approving the Regulations on Invoicing Obligations, establishes the legal regime applicable to electronic invoices, which are defined as invoices that have been issued and received in electronic format without the use of a certain technology being required. This Royal Decree supersedes its predecessor, Royal Decree 1496/2003, and stipulates that paper and electronic invoices are treated similarly. In addition, it permits invoices to be kept in an electronic format provided that the conservation method ensures the legibility of the invoices in the original format in which they were received, and the data and mechanisms that guarantee the authenticity of their origin and the integrity of their contents.

The requirements that must be met by electronic invoices are as follows:

- The recipient must have given his consent.
- The invoice must reflect the reality of the transactions documented in it and guarantee this certainty throughout its period of validity.
- The authenticity, integrity and legibility of the invoice must be ensured.

These aspects must be guaranteed by any legally admissible proof and, in particular, through the “usual management controls over the business or professional activity of the taxable person” which must enable the creation of a reliable audit trail establishing the necessary connection between the invoice and the supply of goods or services documented in it.

The authenticity of the origin and integrity of the contents will, in all cases, be guaranteed by:

- The use of an advanced electronic signature based either on a qualified certificate and created using a secure-signature-creation device, or on a qualified certificate.
- An EDI that envisages the use of procedures that guarantee the authenticity of the origin and integrity of the data.
- Other means that have been communicated prior to their use and validated by the authorities.
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This guide was researched and written by Garrigues on behalf of ICEX-Invest in Spain.

This guide is correct to the best of our knowledge and belief at the date indicated below. It is, however, written as a general guide, so it is necessary that specific professional advice be sought before any action is taken.

Madrid, March 2015
This chapter contains the contact details of the most important entities in Spain and Spanish commercial service offices currently located abroad.
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2. Other institutions 5
3. Stock exchanges and National Securities Market Commission 6
4. Official banks 7
5. Autonomous Community and Autonomous City investment promotion agencies 8
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1. Relevant institutions

**1. RELEVANT INSTITUTIONS**

**DIRECCION GENERAL INVEST IN SPAIN**
C/ Orense, 58. 3ª planta
28020 Madrid
Tel.: 00 (34) 91 503 58 00
web: [www.investinspain.org](http://www.investinspain.org)

**SECRETARÍA DE ESTADO DE COMERCIO**
Paseo de la Castellana, 160-162
28046 Madrid
Tel.: 00 34 (902) 44 60 06 / 00 34 (91) 349 46 40
web: [www.comercio.mityc.es](http://www.comercio.mityc.es)

**ICEX ESPAÑA EXPORTACION E INVERSIONES**
Paseo de la Castellana, 14-16
28046 Madrid
Tel.: 00 34 (902) 34 90 00
web: [www.icex.es](http://www.icex.es)

**DIRECCIÓN GENERAL DE COMERCIO E INVERSIONES**
Paseo de la Castellana, 162
28046 Madrid
Tel.: 00 34 (902) 44 60 06
web: [www.mityc.es](http://www.mityc.es)

**SUBDIRECCIÓN GENERAL DE INCENTIVOS REGIONALES**
Paseo de la Castellana, 162. Planta 21
28046 Madrid
Tel.: 00 34 (91) 583 49 65
web: [www.pap.meh.es](http://www.pap.meh.es)

**DIRECCIÓN GENERAL DE TRIBUTOS**
C/ Alcalá, 5
28014 Madrid
Tel.: 00 34 (91) 595 80 00
web: [www.meh.es](http://www.meh.es)

**DIRECCIÓN GENERAL DEL TESORO**
Paseo del Prado, 6
28014 Madrid
Tel.: 00 34 (91) 209 95 00
web: [www.tesoro.es](http://www.tesoro.es)

**CENTRO DE DESARROLLO TECNOLÓGICO INDUSTRIAL (CDTI)**
C/ Cid, 4
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Tel.: 00 34 (91) 581 55 00 / 209 55 00
web: [www.cdti.es](http://www.cdti.es)

**DIRECCIÓN GENERAL DE POLÍTICA DE LA PEQUEÑA Y MEDIANA EMPRESA**
Paseo de la Castellana, 160. Planta 11-12
28046 Madrid
Tel.: 00 34 (900) 19 00 92
web: [www.ipyme.org](http://www.ipyme.org)
1. Relevant institutions

**DIRECCIÓN GENERAL DE (TRABAJO) EMPLEO**
C/ Pío Baroja, 6
28009 Madrid
Tel.: 00 34 (91) 363 18 01 / 02
Fax: 00 34 (91) 363 20 38
web: www.mtas.es

**SECRETARÍA DE ESTADO DE INMIGRACIÓN Y EMIGRACIÓN**
C/ José Abascal, 39. 1ª planta
28003 Madrid
Tel.: 00 34 (91) 363 70 00
web: www.mtas.es

**DIRECCIÓN GENERAL DE ASUNTOS Y ASISTENCIA CONSULARES**
C/ Juan de Mena, 4
28014 Madrid
Tel.: 00 34 (91) 379 17 00
web: www.mae.es

**AGENCIA ESTATAL DE ADMINISTRACIÓN TRIBUTARIA (AEAT): DPTO. DE ADUANAS E IMPUESTOS ESPECIALES**
Avda. Llano Castellano, 17
28071 Madrid
Tel.: 00 34 (91) 728 94 50
web: www.aeat.es

**MINISTERIO DE MEDIO AMBIENTE Y MEDIO RURAL Y MARINO**
Paseo de la Infanta Isabel, 1
28071 Madrid
Tel.: 00 34 (91) 347 53 68 / 347 57 24
web: www.marm.es

**INSTITUTO NACIONAL DE EMPLEO (Actualmente SEPE, SERVICIO PÚBLICO DE EMPLEO ESTATAL)**
C/ Condesa de Venadito, 9
28027 Madrid
Tel.: 00 34 (91) 585 98 88
web: www.inem.es

**COMPAÑÍA ESPAÑOLA DE FINANCIACIÓN DEL DESARROLLO (COFIDES)**
C/ Príncipe de Vergara, 132. 9ª planta
28002 Madrid
Tel.: 00 34 (91) 745 44 80 / 562 60 08
Fax.: 00 34 (91) 561 00 15
web: www.cofides.es

**CONSEJO SUPERIOR DE INVESTIGACIONES CIENTÍFICAS (CSIC)**
C/ Serrano, 117
28006 Madrid
Tel.: 00 34 (91) 568 14 00
Fax.: 00 34 (91) 411 30 77
web: www.csic.es
2. OTHER INSTITUTIONS

CONSEJO SUPERIOR DE CÁMARAS DE COMERCIO INDUSTRIA Y NAVEGACIÓN DE ESPAÑA (CSC)
C/ Ribera del Loira, 12
28042 Madrid
Tel.: 00 34 (91) 590 69 00
c.e.: info@cscamaras.es
web: www.camaras.org

CONFEDERACIÓN ESPAÑOLA DE ORGANIZACIONES EMPRESARIALES (CEOE)
C/ Diego de León, 50
28006 Madrid
Tel.: 00 34 (91) 566 34 00
c.e.: ceoe@ceoe.es
web: www.ceoe.es

CONFEDERACIÓN ESPAÑOLA DE LA PEQUEÑA Y MEDIANA EMPRESA (CEPYME)
C/ Diego de León, 50
28006 Madrid
Tel.: 00 34 (91) 411 61 61
c.e.: cepyme@cepyme.es
web: www.cepyme.es

AGENCIA ESPAÑOLA DE COOPERACIÓN INTERNACIONAL (AECI)
Avda. Reyes Católicos, 4
28040 Madrid
Tel.: 00 34 (91) 583 81 00
web: www.aeci.es

INSTITUTO DE CONTABILIDAD Y AUDITORÍA DE CUENTAS
C/ Huertas, 26
28014 Madrid
Tel.: 00 34 (91) 389 56 00
web: www.icac.meh.es

ASOCIACIÓN ESPAÑOLA DE CONTABILIDAD Y ADMINISTRACIÓN DE EMPRESAS
C/ Rafael Bergamín, 16 B
28043 Madrid
Tel.: 00 34 (91) 547 37 56 / (91) 547 44 65
Fax.: 00 34 (91) 541 34 84
c.e.: info@aeca.es
web: www.aeca.es
3. Stock exchanges and National Securities Market Commission

3. STOCK EXCHANGES AND NATIONAL SECURITIES MARKET COMMISSION

COMISIÓN NACIONAL DEL MERCADO DE VALORES (CNMV)
(SECCIÓN DE ENTIDADES SUPERVISADAS Y PROFESIONALES)
C/ Miguel Ángel, 11
28010 Madrid
Tel.: 00 34 (91) 585 15 00 / (902) 14 92 00
Fax: 00 34 (91) 585 17 01
web: www.cnmv.es

BOLSAS Y MERCADOS ESPAÑOLES (BME)
Plaza de la Lealtad, 1
28014 Madrid
Tel.: 00 34 (91) 709 50 00
Tel.: 00 34 (91) 589 11 84 (Protector del Inversor)
Fax: 00 34 (91) 589 12 52
c.e.: infobolsamadrid@grupobme.es
web: www.bolsamadrid.es

BOLSA DE BARCELONA
Paseo de Gracia, 19
08007 Barcelona
Tel.: 00 34 (93) 401 35 55
Fax: 00 34 (93) 401 36 50
c.e.: informacion@borsabcn.es
web: www.borsabcn.es

BOLSA DE BILBAO
C/ José María Olábarri, 1
48001 Bilbao
Tel.: 00 34 (94) 403 44 00
Fax: 00 34 (94) 403 44 30
c.e.: bolsabilbao@bolsabilbao.es
web: www.bolsabilbao.es

BOLSA DE VALENCIA
C/ Libreros, 2-4
46002 Valencia
Tel.: 00 34 (96) 387 01 00
Fax: 00 34 (96) 387 01 33 / 60
c.e.: webmaster@bolsavalencia.es
web: www.bolsavalencia.es
4. Official banks

4. OFFICIAL BANKS

BANCO DE ESPAÑA (OFICINAS CENTRALES)
C/ Alcalá, 48
28014 Madrid
Tel.: 00 34 (91) 338 50 00
Fax: 00 34 (91) 338 54 87
c.e.: infoweb@bde.es
web: www.bde.es

INSTITUTO DE CRÉDITO OFICIAL (ICO)
Paseo del Prado, 4
28014 Madrid
Tel.: 00 34 (91) 592 16 00 / (900) 12 11 21
Fax: 00 34 (91) 592 17 00
c.e.: ico@ico.es
web: www.ico.es
5. Autonomous Community and Autonomous City investment promotion agencies

5. AUTONOMOUS COMMUNITY AND AUTONOMOUS CITY INVESTMENT PROMOTION AGENCIES

ANDALUCÍA
AGENCIA DE INNOVACIÓN Y DESARROLLO DE ANDALUCÍA
C/ Torneo, 26
41002 Sevilla
Tel.: 00 34 (95) 503 07 00
Fax: 00 34 (95) 503 07 98
c.e.: informacion@agenciaidea.es
web: www.agenciaidea.es

ARAGÓN
ARAGÓN EXTERIOR S.A. (AREX)
C/ Alfonso I, nº 17. 5ª Planta
50003 Zaragoza
Tel.: 00 34 (976) 22 15 71
Fax: 00 34 (976) 39 71 61
c.e.: info@aragonexterior.es
web: www.aragonexterior.es

ASTURIAS
INSTITUTO DE DESARROLLO ECONÓMICO DEL PRINCIPADO DE ASTURIAS (IDEPÁ)
Parque Tecnológico de Asturias
33428 Linera (Asturias)
Tel.: 00 34 (985) 98 00 20
Fax: 00 34 (985) 26 44 55
c.e.: idepa@idepa.es
web: www.idepa.es

BALEARES
INSTITUTO DE INNOVACIÓN EMPRESARIAL
Plaza de Son Castelló, 1
07009 Palma de Mallorca
Tel.: 00 34 (971) 78 46 50
Fax: 00 34 (971) 78 46 51
c.e.: info@idi.caib.es
web: www.idi.es

CANARIAS
PROEXCA (SOCIEDAD CANARIA DE FOMENTO ECONÓMICO, S.A.)
C/ Nicolás Estévezán, 30-B. 2ª Planta
35007 Las Palmas de Gran Canaria
Tel: 00 34 (928) 30 74 50
Fax: 00 34 (928) 30 74 67
E-Mail: promoción@sofesa.canarias.org / info@proexca.canarias.org
web: www.proexca.es

CANTABRIA
SODERCAN, S.A. (SOCIEDAD PARA EL DESARROLLO REGIONAL DE CANTABRIA)
C/ Isabel Torres, 1
Parque Científico y Tecnológico de Cantabria PTCAN
39011 Santander
Tel.: 00 34 (942) 29 00 03
Fax: 00 34 (942) 76 69 84
c.e.: información@sodercan.com
web: www.sodercan.com

CASTILLA LA MANCHA
INSTITUTO DE PROMOCIÓN EXTERIOR DE CASTILLA-LA MANCHA (IPEX)
P/ Santa María de Benquerencia
C/ Rio Gabriel, s/n
45071 Toledo
Tel.: 00 34 (925) 25 91 00
Fax: 00 34 (925) 25 91 37
c.e.: invest@ipex.es
web: www.ipex.es

CASTILLA-LEÓN
ADE Internacional EXCAL
C/ Jacinto Benavente, 2. Edificio Norte. 1ª Planta
47195 Arroyo de la Encomienda (Valladolid)
Tel.: 00 34 (983) 293 966
Fax: 00 34 (983) 209 803
c.e.: inversiones@excal.es
web: www.invertirencastillayleon.com

CATALUÑA
ACCIÓ
Paseo de Gracia, 129
08008 Barcelona
Tel.: 00 34 (93) 476 72 00
Fax: 00 34 (93) 476 73 03
c.e.: catalonia@cidem.gencat.net
web: www.acc1.cat

CEUTA
PROCESA (SOCIEDAD DE PROMOCIÓN Y DESARROLLO DE CEUTA)
C/ Padilla, s/n
Edificio Ceuta Center, 1ª Planta.
51001 Ceuta
Tel.: 00 34 (95) 652 82 72 / 74
Fax: 00 34 (95) 652 82 73
c.e.: procesa@procesa.es
web: www.procesa.es
5. Autonomous Community and Autonomous City investment promotion agencies

EXTREMADURA

SOFIEX (SOCIEDAD DE FOMENTO INDUSTRIAL)
Avda. José Fernández López, 4
06800 Mérida (Badajoz)
Tel.: 00 34 (924) 31 91 59 / 79
Fax: 00 34 (924) 31 92 12
c.e.: informacion@sofiex.es
web: www.sofiex.es

GALICIA

INSTITUTO GALLEGO DE PROMOCIÓN ECONÓMICA (IGAPE)
Complejo Administrativo San Lázaro, s/n
15703 Santiago de Compostela (La Coruña)
Tel.: 00 34 (981) 54 11 47 / (902) 30 09 03
Fax: 00 34 (981) 55 88 44
c.e.: informa@igape.es
web: www.igape.es

LA RIOJA

CONSEJERÍA DE HACIENDA Y PROMOCIÓN ECONÓMICA.
AGENCIA DE DESARROLLO ECONÓMICO DE LA RIOJA
C/ Muro de la Mata, 13-14
26071 Logroño
Tel.: 00 34 (941) 29 15 00
Fax: 00 34 (941) 29 15 43
c.e.: ader@ader.es
web: www.ader.es

NAVARRA

SODENA, SOCIEDAD DE DESARROLLO DE NAVARRA
Avda. Carlos III el Noble, 36. 1ª Dcha.
31003 Pamplona
Tel.: 00 34 (848) 42 19 42
Fax: 00 34 (848) 42 19 43
c.e.: info@sodena.com
web: www.sodena.com

PAÍS VASCO

SPRI (SOCIEDAD PARA LA PROMOCIÓN Y RECONVERSIÓN INDUSTRIAL, S.A.)
Alameda de Urquijo, 36. 4ª planta. Edificio Plaza Bizkaia
48011 Bilbao
Tel.: 00 34 (94) 403 70 00 (centralita)
Fax: 00 34 (94) 403 70 22
c.e.: info@spri.es
web: www.spri.es

VALENCIA

INSTITUTO VALENCIANO DE EXPORTACIÓN
Plaza América, 2. 7ª Planta
46004 Valencia
Tel.: 00 34 (96) 197 15 00
Fax: 00 34 (96) 197 15 40
c.e.: infoivex@gva.es
web: www.ivex.es

MADRID

INVEST IN MADRID
Calle Albacete, 14,
28037 Madrid
Tel: 00 34 (91) 580 26 22
c.e.: investinmadrid@madrid.org
web: www.investinmadrid.es

ZEC Tenerife
Avenida Marítima, 3. 5ª
Edificio Mapfre
38003 Santa Cruz de Tenerife
Tel.: 00 34 (922) 29 80 10
Fax: 00 34 (922) 27 80 63
c.e.: zec@zec.org
web: www.zec.org

MEDELLINA

PROMESA, PROMOCIÓN ECONÓMICA DE MELILLA
C/La Dalia, 26
Polígono Industrial de SEPES. 52006 Melilla
Tel.: 00 34 (95) 267 98 04 / (902) 02 14 97
Fax: 00 34 (95) 267 98 10
c.e.: info@promesa.net
web: www.promesa.net

MURCIA

INSTITUTO DE FOMENTO DE LA REGIÓN DE MURCIA
Avda. de la Fama, 3
30003 Murcia
Tel.: 00 34 (968) 36 28 00 / 28 21
c.e.: portalinfo@info.carm.es
web: www.ifrm-murcia.es
6. Spanish economic and commercial offices abroad
(www.oficinascomerciales.es)

6. SPANISH ECONOMIC AND COMMERCIAL OFFICES ABROAD

ALMATY (Kazakstan)
Kazybek Bì, 20A. 4ª Planta
Almaty 050010, Kazakhstan
Tels.: 00 (722.72) 93.02.40/66/67
Fax: 00 (722 .72) 93.02.59
c.e.: almaty@mcx.es

AMMÁN (Jordania)
Shmeisani. Abed Al Hamid Sharaf St
Strand Bldg, 61. 1st Floor
P. O. BOX 927148
Ammán - 11110 (Jordan)
Tels.: 00 (962-6) 560.12.81
Fax: 00 (962-6) 560.31.61
c.e.: amman@mcx.es

ANKARA (Turquía)
And Sokak, 8/14/15
06680 Çankaya
Ankara
Tels.: 00 (90-312) 468.70.47 / 48
Fax: 00 (90-312) 468.69.75
c.e.: ankara@mcx.es

ARGEL (Argelia)
5, Rue Césarée. Hydra Argel
16035 Argel (Argelia)
Tels.: 00 (213-21) 60.11.34 / 28 / 40
Fax: 00 (213-21) 60.11.61
c.e.: argel@mcx.es

ASUNCIÓN (Paraguay)
Quesada 5864. Esquina Bélgica
Avenida Villa Morra
Tels.: 00 (595-21) 66.46.76 / 66.28.53
Fax: 00 (595-21) 66.46.70
c.e.: asuncion@mcx.es

ATENAS (Grecia)
Vasileos Konstantinou, 44. 3ª Planta
Atenas 116-35 (Grecia)
Tels.: 00 (3021) 0724 8984 / 7195 / 7390
Fax: 00 (3021) 210 729.17.36
c.e.: atenas@mcx.es

BANGKOK (Tailandia, Laos, Camboya y Myanmar)
26th Floor Serm – Mt Tower
159 Sukhumvit road 21, Wattana
10110 Bangkok (Tailandia)
Tels.: 00 (66-2) 258.90.20/258.90.21
Fax: 00 (66-2) 258.99.90
c.e.: bangkok@mcx.es

BEIRUT (Líbano)
Tabaris, Gebran Tueini Square
Ashada Bldg. 4ª Planta
Beirut (Líbano)
Tels.: 00 (961-1) 32.75.00/56.33/56.22
Fax: 00 (961-1) 33.32.03
c.e.: beirut@mcx.es

BELGRADO (Serbia, Montenegro y República Federal Yugoslava)
Vojvode Supli kca , 40
11118 Belgrado
Tels.: 00 (38-111) 380.68.32
Fax: 00 (38-111) 380.74.67
c.e.: belgrado@mcx.es

BERLÍN (Alemania)
Lichtensteinallee, 1
D-10787 Berlín (Alemania)
Tels.: 00 (49-30) 229.21.34
Fax: 00 (49-30) 229.30.95
c.e.: berlin@mcx.es

BERNA (Suiza)
Guttenbergstrasse, 14
CH 3011 Berna
Tels.: 00 (41-31) 381.21.71
Fax: 00 (41-31) 382.18.45
c.e.: berna@mcx.es

BOGOTÁ (Colombia)
Carrera 9, nº 99-07; oficina 901
Torre La Equidad. Edificio Cien Street
Bogotá (Colombia)
Tels.: 00 (57-1) 655.54.00 / 655.55.05
Fax: 00 (57-1) 250.00.07
c.e.: bogota@mcx.es

BRASILIA (Brasil)
Av. das Nações, lote 44, quadra 811
70429-900 Brasilía
Tels.: 00 (55-61) 3242.93.94
Fax: 00 (55-61) 3242.08.99
c.e.: brasilia@mcx.es
6. Spanish economic and commercial offices abroad (www.oficinascomerciales.es)

BRATISLAVA (República Eslovaca)
Prepóštkska, 10
81101 Bratislava
Tel.: (00-4212) 5441.57.30
Fax: (00-4212) 5441.58.30
c.e.: bratislava@mcx.es

BRUSELAS (Bélgica y Luxemburgo)
Rue Montoyer, 10, 1º
B-1000 Bruselas (Bélgica)
Tel.: 00 (32-2) 551.10.40
Fax: 00 (32-2) 5511.06.93
C.E.: bruselas@mcx.es

REPRESENTACIÓN PERMANENTE DE ESPAÑA ANTE LA UE
Boulevard du Régent, 52
B-1000 Bruselas (Bélgica)
Tel.: 00 (32-2) 509.86.11
Fax: 00 (32-2) 511.73.00
C.E.: buzon.oficial@reper.mae.es
Web: www.es-ue.org

BUCAREST (Rumanía, Moldavia)
Str. Dionisie Lupu, 64-66
III Planta. Sector 1
010458 Bucarest (Rumania)
Tel.: 00 (4021) 312.80.60/60
Fax: 00 (4021) 312.90.80
C.E.: bucarest@mcx.es

BUDAPEST (Hungría)
Nádor Utca. nº 23. II 2
1051 Budapest (Hungría)
Tel.: 00 (36-1) 302.00.70
Fax: 00 (36-1) 302.00.70
C.E.: budapest@mcx.es

BUENOS AIRES (Argentina)
Avda. Figueroa Alcorta, 3102. 2º Piso
C1425CXX Buenos Aires (Argentina)
Tel.: 00 (54-11) 48.09.49.60
Fax: 00 (54-11) 48.09.49.78
C.E.: buenosaires@mcx.es

CARACAS (Venezuela, Antillas Holandesas, Barbados, Antigua, Bahamas, Surinam, Bermudas, Dominica, Granada, San Cristóbal y Nieves, San Vicente y Las Granadinas, Santa Lucía, Guayana y Trinidad y Tobago, Aruba)
Avda. Francisco de Miranda. Edificio Parque Cristal. Torre Este. Piso 10 O FC 10-10
Los Palos Grandes. 1060 Caracas (Venezuela)
Apartado de Correos 1060-A
Tel.: 00 (58-212) 284.92.77
285.58.48 / 29.13
Fax: 00 (58-212) 284.99.64
C.E.: caracas@mcx.es

CASABLANCA (Marruecos)
33, BD. Moulay Youssef
Casablanca (Marruecos) 20000
Tel.: 00 (2125) 22.31.31.18
Fax: 00 (212) 22.31.32.70
C.E.: casablanca@mcx.es

CHICAGO (EE.UU.) (Illinois, Indiana, Iowa, Minnesota, Missouri, Nebraska, Dakota del Norte, Dakota del Sur, Ohio, Wisconsin, Kentucky, Kansas y Michigan)
500 North Michigan Av. Planta 15 (Suite 1500)
Chicago - Illinois 60611 (EE.UU.)
Tel.: 00 (1-312) 644.11.54
Fax: 00 (1-312) 527.55.31
C.E.: chicago@mcx.es

COPENHAGUE (Dinamarca y Lituania)
Vesterbrogade, 10 - 1º
DK - 1620 Copenhagen V (Dinamarca)
Tel.: 00 (45-33) 31.22.10
Fax: 00 (45-33) 21.33.90
C.E.: copenhagen@mcx.es

DAMASCO (Siria y Chipre)
Malik - Orwa Ibn al-Ward St. 8
Al-Kawthar Bdng. 3rd Floor. Damasco (Siria)
Apartado de Correos 2738
Tel.: 00 (963-11) 333.00.15
Fax: 00 (963-11) 333.73.68
C.E.: damasco@mcx.es

DUBAI (Emiratos Árabes Unidos y Qatar)
Emirates Towers Offices (Planta 26 – of. 3)
Código postal 504929
Dubai (EAU)
Tel.: 00 (971-4) 330.01.10
Fax: 00 (971-4) 330.01.12
C.E.: dubai@mcx.es

DUBLÍN (Irlanda)
35, Molesworth St.
Dublín - 2 (Irlanda)
Tel.: 00 (353-1) 661.63.13
Fax: 00 (353-1) 661.01.11
C.E.: dublin@mcx.es

Guide to business in Spain
Useful addresses
11
<table>
<thead>
<tr>
<th>City</th>
<th>Country</th>
<th>Address</th>
<th>Telephone</th>
<th>Fax Number</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>DÜSSELDORF</td>
<td>Alemania</td>
<td>Jägerhofstrasse, 32, 40479 Düsseldorf (Alemania)</td>
<td>00 (49-211) 49.36.60</td>
<td></td>
<td><a href="mailto:dennseldorf@mcx.es">dennseldorf@mcx.es</a></td>
</tr>
<tr>
<td>EL CAIRO</td>
<td>Egipto, Sudán, Etiopía y Djibouti</td>
<td>19, Boulos Hanna Street, Midan Feni / Dokki CP. 12311, El Cairo (Egipto)</td>
<td>00 (20-2) 3336.15.88/96.24/96.26</td>
<td></td>
<td><a href="mailto:elcairo@mcx.es">elcairo@mcx.es</a></td>
</tr>
<tr>
<td>ESTAMBUL</td>
<td>Turquía</td>
<td>Cumhuriyet Cad., 42 K, 5 Dörtlter Apt. Elmadag CP. 034437 Ankara, Estambul (Turquía)</td>
<td>00 (90-212) 296.61.61</td>
<td></td>
<td><a href="mailto:estambul@mcx.es">estambul@mcx.es</a></td>
</tr>
<tr>
<td>ESTOCOLMO</td>
<td>Suecia y Letonia</td>
<td>Spaniska Ambassadens Handelsavdelning, Sergels Torg 12, TSOSE-TT-57 Estocolmo</td>
<td>00 (46-8) 24.66.10</td>
<td></td>
<td><a href="mailto:estocolmo@mcx.es">estocolmo@mcx.es</a></td>
</tr>
<tr>
<td>GUATEMALA</td>
<td>Guatemala, Honduras, Nicaragua y Belice</td>
<td>Edificio Géminis, 10 - Torre Sur - Oficina 1701 12 Calle 1 – 25, Zona 10 01010 Guatemala C.A. (Guatemala)</td>
<td>00 (502-23) 35.30.11</td>
<td></td>
<td><a href="mailto:guatemala@mcx.es">guatemala@mcx.es</a></td>
</tr>
<tr>
<td>HELSINKI</td>
<td>Finlandia y Estonia</td>
<td>Pohjoisesplanadi, 27C 00100 Helsinki (Finlandia)</td>
<td>00 (358-9) 685.05.30</td>
<td></td>
<td><a href="mailto:helsinki@mcx.es">helsinki@mcx.es</a></td>
</tr>
<tr>
<td>HO CHI MINH CITY</td>
<td>Vietnam</td>
<td>Pham Ngoc Thach Guest House 21, Phung Khac Khoan. 5ª planta District 1 Ho Chi Minh City (Vietnam)</td>
<td>00 (848) 38.25.01.73</td>
<td></td>
<td><a href="mailto:hochiminhcity@mcx.es">hochiminhcity@mcx.es</a></td>
</tr>
<tr>
<td>HONG KONG</td>
<td>Macao y Hong Kong</td>
<td>2004, Tower One, Lippo Centre 89 Queensway Admiralty Hong Kong (China)</td>
<td>00 (852) 25.21.74.33 / 25.22.75.12 - IP 92868 / 98820</td>
<td>00 (852) 28.45.34.48</td>
<td><a href="mailto:hongkong@mcx.es">hongkong@mcx.es</a></td>
</tr>
<tr>
<td>ISLAMABAD</td>
<td>Pakistán (Afganistán)</td>
<td>Street 6, Ramna 5 - Diplomatic Enclave, 1 Islamabad (Pakistán) Código postal 1144</td>
<td>00 (9251) 208.87.53 / 63</td>
<td></td>
<td><a href="mailto:islamabad@mcx.es">islamabad@mcx.es</a></td>
</tr>
<tr>
<td>JOHANNESBURGO</td>
<td>República Sudafricana, Mozambique, Lesotho, Swazilandia, Botswana y Zimbabwe</td>
<td>Fredman Towers, Planta 8 13 Fredman Drive Sandton 2146 Johannesburgo</td>
<td>00 (27-11) 883.21.02 / 03</td>
<td></td>
<td><a href="mailto:johannesburgo@mcx.es">johannesburgo@mcx.es</a></td>
</tr>
<tr>
<td>KIEV</td>
<td>Ucrania</td>
<td>Illinska, 22. 4ª planta 04070 Kiev (Ucrania)</td>
<td>00 (38044) 494.29.40 / 41</td>
<td></td>
<td><a href="mailto:kiev@mcx.es">kiev@mcx.es</a></td>
</tr>
<tr>
<td>KUALA LUMPUR</td>
<td>Malasia y Brunei</td>
<td>Menara Boustead, Piso 20 69, Jalan Raja Chulan 50200 Kuala Lumpur (Malasia) Código postal 50760 Kuala Lumpur</td>
<td>00 (27-11) 81.48.73.00</td>
<td></td>
<td><a href="mailto:kualalumpur@mcx.es">kualalumpur@mcx.es</a></td>
</tr>
<tr>
<td>LA HABANA</td>
<td>Cuba</td>
<td>Calle 22, n° 516, entre 5ª y 7ª Miramar 11300 La Habana (Cuba)</td>
<td>00 (53-7) 204.81.00 / 98</td>
<td></td>
<td><a href="mailto:lahavana@mcx.es">lahavana@mcx.es</a></td>
</tr>
<tr>
<td>LA HAYA</td>
<td>Países Bajos</td>
<td>Embajada de España Burg. Patiño 16, 67 2585 B.J. La Haya (Países Bajos) Código postal 1144</td>
<td>00 (31-70) 360.82.74</td>
<td></td>
<td>lahaya@es</td>
</tr>
<tr>
<td>LA PAZ</td>
<td>Bolivia</td>
<td>Avenida 20 Octubre, esq. Calle Campos Edif. torre azul piso 15 Casilla de correo 1577 - La Paz</td>
<td>00 (591-2) 214.10.16</td>
<td></td>
<td><a href="mailto:lapaz@mcx.es">lapaz@mcx.es</a></td>
</tr>
</tbody>
</table>

Guide to business in Spain
Useful addresses
12
### 6. Spanish economic and commercial offices abroad (www.oficinascomerciales.es)

<table>
<thead>
<tr>
<th>Location</th>
<th>Address</th>
<th>Phone Numbers</th>
<th>Fax Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LAGOS</strong> (Nigeria, Ghana, Benin, Togo, Chad, Cameroon, Gabon, Guinea Ecuatorial and República Centroafricana)</td>
<td>Plot 933 Ijede St. Victoria Island-Lagos (Nigeria)</td>
<td>00 (234-1) 761.20.09 / 462.78.82</td>
<td>00 (234-8) 033.33.29 / 78</td>
</tr>
<tr>
<td><strong>LIMA</strong> (Perú)</td>
<td>Avda. Jorge Basadre, 405 Apartado de Correos 270067</td>
<td>00 (51-1) 442.17.88 / 17.89</td>
<td>00 (51-1) 442.17.90</td>
</tr>
<tr>
<td><strong>LISBOA</strong> (Portugal)</td>
<td>Campo Grande, 28 2ºA/B/E</td>
<td>00 (351-21) 781.76.40</td>
<td>00 (351-21) 796.69.95</td>
</tr>
<tr>
<td><strong>MÉXICO D.F.</strong> (México)</td>
<td>Avenida Presidente Masaryk, 473 Colonia Los Morales - Polanco</td>
<td>00 (52-559) 138.60.40</td>
<td>00 (52-559) 138.60.50</td>
</tr>
<tr>
<td><strong>MIAMI</strong> (Florida, Alabama, Arkansas, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee y Texas)</td>
<td>2655 Le Jeune Road (Suite 1114) Coral Gables Miami, Fl 33134 (EE.UU.)</td>
<td>00 (1-305) 446.43.87</td>
<td>00 (1-305) 446.26.02</td>
</tr>
<tr>
<td><strong>MILÁN</strong> (Italia)</td>
<td>Via del Vecchio/Politecnico, 3 (16ª)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>MONTERREY</strong> (México)</td>
<td>Av. De la industria nº 555-B, 4º piso</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>MONTEVIDEO</strong> (Uruguay)</td>
<td>Plaza Cagancha, 1335</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>MOSCÚ</strong> (Rusia, Armenia, Bielorrusia, Georgia, Kazajstán, Kirguistán, Turkmenistán, Tayikistán, Uzbekistán y Azerbaiyán)</td>
<td>Business Center “Mojovaya” Ul Vozdvizhenka, 4/7 (Entrada por Ul Mojovaya, 7 stro, 2,3º) 125009 Moscú (Federación Rusa)</td>
<td>00 (7-495) 783.92.81/8283</td>
<td>00 (7-495) 783.92.91</td>
</tr>
<tr>
<td><strong>NAIROBI</strong> (Kenia, Uganda, Tanzania, Mauricio y Seychelles)</td>
<td>CBA Building 3 Rd. Floor, MARA &amp; RAGATI ROADS UPPERMUND P.O. BOX 20961</td>
<td>00202 Nairobi</td>
<td>00 254.202.71.14.34</td>
</tr>
</tbody>
</table>

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Guide to business in Spain
Useful addresses
6. Spanish economic and commercial offices abroad
(www.oficinascomerciales.es)

**NUEVA DELHI** (India, Nepal, Sri Lanka, Bangladesh y Maldivas)
2 Palam Marg. Vasant Vihar
110057 Nueva Delhi (India)
Tels.: 00 (91-11) 2614.64.77/51.96/52.05
Fax: 00 (91-11) 2614.59.56
C.e.: nuevadelhi@mcx.es

**NUEVA YORK** (Nueva York, Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island y Vermont)
405 Lexington Av. Planta 44
Nueva York 10174-4499
Tels.: 00 (1-212) 661.49.59/49.60
Fax: 00 (1-212) 972.24.94
C.e.: nuevayork@mcx.es

**OSLO** (Noruega e Islandia)
Karl Johansgate, 18C
0159 Oslo (Noruega)
Tel.: 00 (47) 23.31.06.80
Fax: 00 (47) 23.31.06.86
C.e.: oslo@mcx.es

**OTTAWA** (Canadá)
151 Slater St. (Suite 801)
Ottawa - Ontario K1P 5H3 (Canadá)
Tels.: 00 (1-613) 236.04 / 04.09
Fax: 00 (1-613) 563.28.49
C.e.: ottawa@mcx.es

**PANAMÁ** (Panamá y Costa Rica)
Edificio St. Georges Bank, Piso 8, Calle 50 y 53 - Obarrio
Apartado 8023-05444. Panamá. CP 0823 Ciudad de Panamá
Tels.: 00 (507) 269.40.18
Fax: 00 (507) 264.34.58
C.e.: panama@mcx.es

**PARÍS** (Francia, Martinica, Guadalupe, La Reunión, Polinesia Francesa, Guayana Francesa, Nueva Caledonia, Monaco, Andorra)
11, Avenue D´Lena. 75016 París (Francia)
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Fax: 00 (33-1) 47.20.97.22
C.e.: paris@mcx.es

**PARÍS** (Representación Permanente de España ante la OCDE)
22, Avenue Marceau
75008 París (Francia)
Tel.: 00 (33-1) 44.43.30.31
Fax: 00 (33-1) 40.70.06.54
C.e.: paris.ocde@mcx.es

**PEKÍN** (Mongolia, China y Corea del Norte)
Spain Building, 5Th and 6Th Floor - Gongtianlu A1-B, CHAOYANG DISTRICT
100020 Beijing (China)
Tel.: 00 (8610) 58.79.97.33
Fax: 00 (8610) 58.79.97.34
C.e.: pekin@mcx.es

**PRAGA** (República Checa)
Stepánská, 10
12000 Praga-2 (República Checa)
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Fax: 00 (420) 224.94.11.15
C.e.: praga@mcx.es

**QUITO** (Ecuador)
Avenida República 396 y Diego de Almagro. Edificio Forum 300, 10º
QUITO (Ecuador)
Tels.: 00 (593-2) 254.4716/61.74 / 255.75.04
Fax: 00 (593-2) 256.41.74
C.e.: quito@mcx.es

**RIAD** (Arabia Saudí, Omán, Yemen, Bahrein y Kuwait)
Awd. King Fahad-Distríito Olaya – Area C
Edificio Al faisaliah Tower, Planta 11
Código postal 94.327
11693 Al Riyadh (Arabia Saudí)
Tels.: 00 (966-1) 273.47.07 / 464.51.25
Fax: 00 (966-1) 273.47.05
C.e.: riad@mcx.es

**ROMA** (Italia, Albania, San Marino y Malta)
Viale delle Milizie, 12
00192 Roma (Italia)
Tels.: 00 (39-06) 372.82.06/81.27/82.23
Fax: 00 (39-06) 372.83.65
C.e.: roma@mcx.es

**SAN JUAN DE PUERTO RICO** (Puerto Rico e Islas Vírgenes Norteamericanas)
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Tel.: 00 (1787) 758.63.45
Fax: 00 (1787) 758.69.48
C.e.: sanjuan@mcx.es

**SAN SALVADOR** (El Salvador)
C/ La Mascota. Edif. 533. Local Mezanne colonia San Benito
San Salvador (El Salvador)
Tel.: 00 (503) 2275.78.21/22
Fax: 00 (503) 2275.78.23
C.e.: salvador@mcx.es

**SANTIAGO DE CHILE** (Chile)
Avenida 11 de Septiembre 1901, Piso 8
6640582 Santiago de Chile (Chile)
Tel.: 00 (56-2) 204.97.86
Fax: 00 (56-2) 204.58.14
C.e.: santiagochile@mcx.es
### 6. Spanish economic and commercial offices abroad (www.oficinascomerciales.es)

<table>
<thead>
<tr>
<th>City</th>
<th>Country/Countries served</th>
<th>Address</th>
<th>Phone numbers</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>SANTO DOMINGO</td>
<td>República Dominicana, Jamaica y Haití</td>
<td>Avda. W. Churchill, Esquina Luis F. Thomén Edificio Torre BHD (4ª Planta) Sector Evaresto Morales Apartado Correos 1822</td>
<td>Tel.: 00 (1809) 567.56.82 Fax: 00 (1809) 542.60.26</td>
<td>c.e.: <a href="mailto:santodomingo@mcx.es">santodomingo@mcx.es</a></td>
</tr>
<tr>
<td>SAO PAULO</td>
<td>Brasil</td>
<td>Praça General Gentil Falcão, 108. 8º Andar Cj. 82 Brooklin Novo- CEP 04571-010 São Paulo S.P.(Brasil)</td>
<td>Tel.: 00 (5511) 51.05.43.78 Fax: 00 (5511) 51.05.43.82</td>
<td>c.e.: <a href="mailto:saopaulo@mcx.es">saopaulo@mcx.es</a></td>
</tr>
<tr>
<td>SEÚL</td>
<td>Corea del Sur</td>
<td>17th Fl. Cheonggye 11 Bldg. 149, Seorin-dong, Chongro-gu Seúl 110-726 (Corea del Sur)</td>
<td>Tels.: 00 (82) 736.84.54 / 55 Fax: 00 (82-2) 736.84.56</td>
<td>c.e.: <a href="mailto:seul@mcx.es">seul@mcx.es</a></td>
</tr>
<tr>
<td>SHANGHAI</td>
<td>China</td>
<td>25Th Floor, Westgate Mall, 1038 Nanjing XI Road 200041 Shanghai (China)</td>
<td>Tels.: 00 (86-21) 62.17.26.20 Fax: 00 (86-21) 62.67.77.50</td>
<td>c.e.: <a href="mailto:shanghai@mcx.es">shanghai@mcx.es</a></td>
</tr>
<tr>
<td>SIDNEY</td>
<td>Australia, Nueva Zelanda, Papúa Nueva Guinea, Fiyi, Islas Salomón, Tonga</td>
<td>Edgecliff Centre, Suite 408 203 New South Head Road Edgecliff NSW 2027 Sidney (Australia)</td>
<td>Tels.: 00 (61-2) 93.62.42.12/42.13/42.14 Fax: 00 (61-2) 93.62.40.57</td>
<td>c.e.: <a href="mailto:sidney@mcx.es">sidney@mcx.es</a></td>
</tr>
<tr>
<td>SINGAPUR</td>
<td>Singapur</td>
<td>7 Temasek Boulevard, 19-03 Suntec Tower one Singapore 038987</td>
<td>Tels.: 00 (65) 6732.97.88 Fax: 00 (65) 6732.97.80</td>
<td>c.e.: <a href="mailto:singapur@mcx.es">singapur@mcx.es</a></td>
</tr>
<tr>
<td>SOFÍA</td>
<td>Bulgaria, Macedonia</td>
<td>Dragan Tzankov, 36 World Trade Center Interped. 2ª Ofc 204 1057 Sofia</td>
<td>Tels.: 00 (3592) 807.96.62 Fax: 00 (3592) 971.20.63</td>
<td>c.e.: <a href="mailto:sofia@mcx.es">sofia@mcx.es</a></td>
</tr>
<tr>
<td>TEGUCIGALPA</td>
<td>(Honduras)</td>
<td>Avenida Costa Rica s/n. Col. Las Lomas del Mayab. Centro de Negocios Las Lomas 4ª Tegucigalpa (Honduras)</td>
<td>Tel.: 00 (504) 235.30.02/01 Fax: 00 (504) 235.30.04</td>
<td>c.e.: <a href="mailto:tegucigalpa@mcx.es">tegucigalpa@mcx.es</a></td>
</tr>
<tr>
<td>TEHERÁN</td>
<td>Irán y Afganistán</td>
<td>29 Gol Gash St. África Ave. 19158 Teherán (Irán)</td>
<td>Tel.: 00 (98-21) 201.61.18/2201 59 10/2204 15 28 Fax: 00 (98-21) 204.90.23</td>
<td>c.e.: <a href="mailto:teheran@mcx.es">teheran@mcx.es</a></td>
</tr>
<tr>
<td>TORONTO</td>
<td>Canadá</td>
<td>2, Bloor St. East (Suite 1506) 64077 Tel-Aviv (Israel)</td>
<td>Tels.: 00 (972-3) 695.56.91 Fax: 00 (972-3) 695.29.94</td>
<td>c.e.: <a href="mailto:telaviv@mcx.es">telaviv@mcx.es</a></td>
</tr>
<tr>
<td>TOKIO</td>
<td>Japón</td>
<td>3-1-3-29, Roppongi, MINATO-KU Tokio 106-0032</td>
<td>Tels.: 00 (81-3) 55.75.04.31 Fax: 00 (81-3) 55.75.64.31</td>
<td>c.e.: <a href="mailto:tokio@mcx.es">tokio@mcx.es</a></td>
</tr>
<tr>
<td>TRÍPOLI</td>
<td>Libia</td>
<td>Wesait El-Ebdery- Zona fashlum Código postal 3572 Tripoli, LIBIA</td>
<td>Tels.: 00 (218-21) 340.23.63 Fax: 00 (218-21) 340.23.59</td>
<td>c.e.: <a href="mailto:tripoli@mcx.es">tripoli@mcx.es</a></td>
</tr>
<tr>
<td>TÚNEZ</td>
<td>Túnez</td>
<td>30, Av. Jugurtha 1082 Túnez (Túnez)</td>
<td>Tels.: 00 (21671) 78.81.03 Fax: 00 (21671) 78.76.02</td>
<td>c.e.: <a href="mailto:tunez@mcx.es">tunez@mcx.es</a></td>
</tr>
<tr>
<td>VARSOVIA</td>
<td>Polonia</td>
<td>Genewska, 16 02-963 Varsovia (Polonia)</td>
<td>Tels.: 00 (48-22) 617.94.08 Fax: 00 (48-22) 617.29.11</td>
<td>c.e.: <a href="mailto:varsovia@mcx.es">varsovia@mcx.es</a></td>
</tr>
</tbody>
</table>
6. Spanish economic and commercial offices abroad
(www.oficinascomerciales.es)

**VIENA** (Austria y Eslovenia)
Stubenring, 16-2 Stock
A-1011 Viena (Austria)
Tel.: 00 (43-1) 513.39.33
Fax: 00 (43-1) 513.81.47
c.e.: viena@mcx.es

**VILNIUS** (Lituania)
Victoria Building
Jasinskio 16 B- LT 01112 VILNIUS
Tel.: 00 (370-5) 254.68.00/02
Fax: 00 (370-5) 254.68.01
E-Mail: vilnius@mcx.es

**WASHINGTON** (Carolina del Norte, Carolina del Sur, Delaware,
Maryland, Virginia, West Virginia y Distrito de Columbia)
2375 Pennsilvanya Av. N.W.
Washington, DC (EE.UU.) 20037-1736
Tel.: 00 (1-202) 728.23.68
Fax: 00 (1-202) 466.73.85
c.e.: washington@mcx.es

**YAKARTA** (Indonesia)
Jl. H. Agus Salim, 61, 4ª planta
Código postal 41 Kosgoro
Yakarta 10350 (Indonesia)
Tel.: 00 (62-21) 310.74.90/391.75.43/44
Fax: 00 (62-21) 319.30.164
c.e.: yakarta@mcx.es

**ZAGREB** (Croacia, Bosnia y Herzegovina)
Savska 41/1 (Edif. Zagrepca
1000 Zagreb (Croacia)
Tel.: 00 (385-1) 617.69.01/663
Fax: 00 (385-1) 617.66.69
c.e.: zagreb@mcx.es
This Exhibit explains the basic legislative aspects that govern the various vehicles, corporate or otherwise, that can be used by foreign investors in order to operate in Spain. Specifically, the legal requirements that must be observed for both formation (minimum capital and the time at which it must be paid, minimum number of members, requirement to be met by the bylaws, etc.), and the subsequent pursuit of its business (rules governing the adoption of business resolutions, powers of the managing body, the rules on liability of partners and shareholders, etc.).
Guide to business in Spain

Annex I
Company and commercial law

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3. The treatment of liability at the types of business enterprises 5
4. Main characteristics of corporations and limited liability companies 6
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6. New limited liability company 25
7. Professional services firm (S.P.) 26
8. Sole-shareholder companies 27
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1. Applicable legislation

1. APPLICABLE LEGISLATION

Legislative Royal Decree 1/2010, of July 2, 2010, approving the Revised Capital Companies Law (hereinafter, the “Capital Companies Law”), constitutes the basic legal text that regulates the various legal forms of capital companies envisaged in Spanish law, i.e., the corporation (S.A.), the limited liability company (S.L.), the partnership limited by shares, the new limited liability company (S.L.N.E.) and the European company (S.E.), as well as the special features of listed corporations.

The Capital Companies Law is supplemented by (i) Royal Decree 1784/1996, of July 19, 1996, approving the Commercial Registry Regulations; (ii) Law 3/2009, of April 3, on Structural Modifications to Commercial Companies, which regulates business restructuring processes under current commercial law practices, including changes in corporate form, mergers, spin-offs, global transfers of assets and liabilities and international transfers of registered offices; (iii) the Royal Decree of August 22, 1885, approving the Commercial Code; and (iv) Law 2/2007 on Professional Services Firms, which regulates the formation of commercial undertakings by members of professional associations (see section 9 of this Annex). These texts constitute the core legislation in the area of Spanish company and commercial law.
2. Forms of business enterprise

2. FORMS OF BUSINESS ENTERPRISE

Spanish law envisages various different kinds of business enterprises, all of which can be used by foreign investors.

The most significant are:

- **Corporation (Sociedad Anónima, abbreviated as “S.A.”).**
- **European Public Limited-Liability Company (Sociedad Anónima Europea, abbreviated as “S.E.”).** Possibility offered by EU legislation to companies that operate in various Member States to create a single company capable of operating in the EU in accordance with a single set of rules and a unified management system.
- **Limited Liability Company (Sociedad de Responsabilidad Limitada, abbreviated as “S.L.” or “S. R. L.”).**
- **New Limited Liability Company (“Sociedad Limitada Nueva Empresa” abbreviated as “S.L.N.E.”), a variation on the S.L. specially intended for small and medium-sized companies that simplifies the requirements for its formation.
- **General Partnership (Sociedad Regular Colectiva, abbreviated as “S. R. C.” or “S. C.”).**
- **Limited Partnership (Sociedad en Comandita, abbreviated as “S. en Com.” or “S. Com.”) or Limited Partnership by Shares (Sociedad en Comandita por Acciones, abbreviated as “S. Com. p. A.”).**
- **Professional Services Firm (“Sociedad Profesional”, abbreviated as “S. P.”), the purpose of which is the common pursuit of an activity regulated by professional association, and which may be formed in accordance with any of the corporate forms legally established under their specific legislative provisions.**

The corporation (S.A.), which is the archetypal trading company and has traditionally been the most commonly used form, has become less popular and today the limited liability company (S.L.) is the most common form of trading company. The reasons for this include the fact that a limited liability company requires less capital than an S.A. However, the limited partnership and the general partnership forms are hardly used at all.

Some of the salient features of each of the above corporate forms are summarized below. It should be noted that in many instances the Law provides only minimum standards or general rules. The founders of a company have a great deal of flexibility when it comes to tailoring the structure of the company to their specific needs through the inclusion of certain clauses in the bylaws, for which they should seek the appropriate legal advice.

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1 The corporate name of this kind of firm should include, together with the corporate form in question, the expression “Professional” or the abbreviation “P”, for example, “Sociedad anónima profesional” [Professional corporation] or “S.A.P.”.
3. The treatment of liability at the types of business enterprises

3. THE TREATMENT OF LIABILITY AT THE TYPES OF BUSINESS ENTERPRISES

The following table summarizes the liability regime governing shareholders and partners at the various business enterprises:

<table>
<thead>
<tr>
<th>Corporate form</th>
<th>Liability</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Corporation (S.A.) / Limited Liability</strong></td>
<td>The liability of the shareholders is generally limited to the amount of the capital stock contributed by each of them. In exceptional cases, liability may be sought from shareholders in order to protect the interests of third parties. In these exceptional cases, the courts have followed the doctrine of “piercing the corporate veil” (levantamiento del velo) as a reaction to misconduct by the shareholders while fraudulently sheltering behind the company’s legal personality; in such event, the courts may look behind it and not differentiate between the company’s assets and those of each of the shareholders when establishing liability.</td>
</tr>
<tr>
<td><strong>General partnership (S.R.C.)</strong></td>
<td>Liability is not limited. General partners are personally and jointly and severally liable with the whole of their net worth for the debts of the partnership.</td>
</tr>
<tr>
<td><strong>Limited partnership (S. Com)</strong></td>
<td>There is at least one general partner and one or more limited partners. General partners are personally and jointly and severally liable with the whole of their net worth for the debts of the partnership. Limited partners are only liable for the amount of capital they contribute or promise to contribute to the partnership. The capital of limited partnerships may be divided into shares.</td>
</tr>
<tr>
<td><strong>Professional services firm (S.P.)</strong></td>
<td>The professional members will be jointly and severally liable with the firm for its professional acts, and they will be subject to such general rules on contractual and noncontractual liability as may apply.</td>
</tr>
</tbody>
</table>

Notwithstanding the above, Organic Law 5/2010, of June 22, 2010, amending Organic Law 10/1995, of November 23, 1995, on the Criminal Code, introduced into Spanish law the criminal liability of legal entities in certain activities and cases (among others, for example, trafficking in human beings, discovery and disclosure of secrets, fraud, criminal insolvency, damage to others’ property, offenses against intellectual and industrial property, the market and consumers, concealment of criminal property and money laundering, money laundering offenses against the tax and social security authorities, foreign citizens’ rights, offenses against zoning and urban planning, offenses against natural resources and the environment, bribery, influence peddling or corruption in international commercial transactions).
4. Main characteristics of corporations and limited liability companies

4. MAIN CHARACTERISTICS OF CORPORATIONS AND LIMITED LIABILITY COMPANIES

This section summarizes some of the major substantive aspects that commonly interest foreign investors with respect to the most widely used forms of business entity in Spain, the S.A. and the S.L.

4.1. Main differences between corporations and limited liability companies

The main differences between S.A.s and S.L.s are as follows:

| Table 2 |
| DIFFERENCES BETWEEN S.A.s AND S.L.s |
| :---: | :---: |
| **S.A.** | **S.L.** |
| Minimum capital stock | €60,000. | €3,000 \(^2\). |
| Payment upon formation | At least 25% and any share premium. | Payment in full. |
| Contributions | A report from an independent expert on any non-monetary contributions is required. | No report from an independent expert on non-monetary contributions is required, although the founders and shareholders are jointly and severally liable for the authenticity of any non-monetary contributions made. |
| Shares | They are marketable securities. Debentures and other securities can be issued. | They are not marketable securities. Debentures and other securities cannot be issued. |
| Transfer of shares | Depends on how they are represented (share certificates, book entries, etc.) and on their nature (registered or bearer shares). In principle, they may be freely transferred, unless the bylaws provide otherwise. | Must be recorded in a public document. S.L. shares are generally not freely transferable (unless acquired by other shareholders, ascendants, descendants or companies within the same group). In fact, unless otherwise provided in the bylaws, the law establishes a pre-emptive acquisition right in favor of the other shareholders or the company itself in the event of a transfer of the shares to persons other than those referred to above. |
| Amendments to the bylaws | The directors or shareholders, as the case may be, making the proposal must make a report. | No report is required. |

\(^2\) Except in the case of the entrepreneurial limited liability company, the rules for which are described in section 4.2 below.
4. Main characteristics of corporations and limited liability companies

### Table 2 (cont.)

**DIFFERENCES BETWEEN S.A.s AND S.L.s**

<table>
<thead>
<tr>
<th></th>
<th>S.A.</th>
<th>S.L.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Venue for shareholders’ meetings</strong></td>
<td>As indicated in the bylaws (in any event, the meeting must be held in Spain). Otherwise, in the municipality where the company has its registered office.</td>
<td></td>
</tr>
<tr>
<td><strong>Attendance and majorities at shareholders’ meetings</strong></td>
<td>Different quorums and majorities are established for meetings on first and second call and depending on the content of the resolutions. These can be increased by the bylaws.</td>
<td>Different majorities are established depending on the content of the resolutions. These can be increased by the bylaws.</td>
</tr>
<tr>
<td><strong>Right to attend shareholders’ meetings</strong></td>
<td>A minimum number of shares may be required to attend the shareholders’ meeting.</td>
<td>These rights cannot be restricted.</td>
</tr>
<tr>
<td><strong>Number of members of the board of directors</strong></td>
<td>Minimum: 3. No maximum limit.</td>
<td>Minimum: 3. A maximum of 12 members.</td>
</tr>
<tr>
<td><strong>Term of the office of director</strong></td>
<td>Maximum 6 years. They may be reelected for periods of the same maximum duration.</td>
<td>May be indefinite.</td>
</tr>
<tr>
<td><strong>Issue of bonds</strong></td>
<td>Bond issues may be used as a means to raise funds.</td>
<td>Limited liability companies cannot issue bonds.</td>
</tr>
</tbody>
</table>

### 4.2. Formation and capital stock

#### Table 3

**FORMATION AND CAPITAL STOCK**

<table>
<thead>
<tr>
<th></th>
<th>S.A.</th>
<th>S.L.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Minimum capital stock</strong></td>
<td>€60,000, fully subscribed and at least 25% of the par value of the shares paid in$^3$.</td>
<td>€3,000, fully subscribed and paid in (except in the case of the entrepreneurial limited liability company for which the law permits lower capital stock).</td>
</tr>
</tbody>
</table>

$^3$ Nonetheless, bear in mind that:

- When the capital stock is not fully paid in, the bylaws must state the manner and time period for the payment of the remaining portion of subscribed capital. No maximum time period for payment of outstanding capital by contributions in cash is stated in the Law but five years is the maximum term for full payment of contributions in kind.
- The specific regulations governing certain activities (banking, insurance, etc.) may require that the minimum amount under the Capital Companies Law be exceeded.
4. Main characteristics of corporations and limited liability companies

**Table 3 (cont.)**

<table>
<thead>
<tr>
<th>FORMATION AND CAPITAL STOCK</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Debt ratios</strong></td>
</tr>
<tr>
<td>There are currently no mandatory minimum debt-equity ratios under Spanish law for any type of business enterprise, (however, there is a debt-equity ratio for tax purposes: see Chapter 3, section 2.) Moreover, certain legal requirements may be applicable to companies operating in regulated sectors.</td>
</tr>
<tr>
<td><strong>Special rules on mandatory winding up or capital reduction</strong></td>
</tr>
<tr>
<td>There must be a certain balance between the capital stock and the net worth of a company, meaning that if losses incurred reduce the net worth to less than one-half of the capital stock figure, the company will be subject to mandatory grounds for dissolution (article 363.1 of the Capital Companies Law), unless the capital stock is sufficiently increased (or reduced) and provided that it is not necessary to petition for insolvency pursuant to Insolvency Law 22/2003, of July 9, 2003.</td>
</tr>
<tr>
<td>Capital must be reduced at a corporation where losses have reduced the net worth of the corporation to less than two-thirds of its capital stock figure and one fiscal year has elapsed without its net worth having been restored (article 327 of the Capital Companies Law).</td>
</tr>
<tr>
<td><strong>Number of shareholders</strong></td>
</tr>
<tr>
<td>• No minimum number of shareholders is required by Spanish law to incorporate a company, although sole shareholder companies are subject to a special system of disclosure.</td>
</tr>
<tr>
<td>• Shareholders can be individuals or companies of any nationality and residence.</td>
</tr>
</tbody>
</table>

As an exception to the general rule of minimum capital of €3,000 that applies to limited liability companies, Law 14/2013, of September 27, 2013, on support to entrepreneurs and their internationalization (the “Entrepreneurs Law”) amended the Capital Companies Law to regulate the concept of the “Entrepreneurial Limited Liability Company”, which can have capital lower than €3,000 subject to the following requirements:

**Table 4**

<table>
<thead>
<tr>
<th>FORMATION AND CAPITAL STOCK</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>N.º</strong> Requirements</td>
</tr>
<tr>
<td><strong>1</strong> Continued submission to the entrepreneurial limited liability company regime:</td>
</tr>
<tr>
<td>• In the bylaws; and</td>
</tr>
<tr>
<td>• The Commercial Registrar will automatically state this circumstance in the clearance notes for any registrable documents and any certificates that are issued.</td>
</tr>
</tbody>
</table>
4. Main characteristics of corporations and limited liability companies

Table 4 (cont.)

<table>
<thead>
<tr>
<th>N.°</th>
<th>Requirements</th>
</tr>
</thead>
</table>
| 2   | **Legal reserve:**  
At least 20% of the income for the year must be allocated to the reserve without any limit on the amount. |
| 3   | **Distribution of dividends:**  
Once the legal and bylaw reserves have been covered, dividends may be distributed to the shareholders only if the net worth is not or, as a result of the distribution, does not become, lower than 60% of the minimum legal capital. |
| 4   | **Compensation to shareholders and directors:**  
The sum of the compensation paid to the shareholders and directors for discharging such offices may not exceed 20% of the net worth for the year in question, notwithstanding the compensation to which they may be entitled as self-employed workers or for the provision of professional services. |
| 5   | **Liquidation:**  
In the case of voluntary or mandatory liquidation, if the net worth of the company is insufficient to pay its obligations, the shareholders and directors of the company will be jointly and severally liable for the payment of the minimum capital figure stipulated in the Capital Companies Law. |
| 6   | **Substantiation of monetary contributions:**  
It will not be necessary to substantiate the existence of the monetary contributions from the shareholders when forming entrepreneurial limited liability companies, as the founders and those who acquire the shares subscribed in the formation will be jointly and severally liable to the company and its creditors for the existence of such contributions. |

4.2.1. **Formalities for formation**

The shareholders (or their representatives) must appear before a notary in order to execute the public deed of formation of a corporation or limited liability company. Subsequently, the deed of formation must be registered at the Commercial Registry. Upon registration, the company acquires legal personality and legal capacity\(^4\).

4.2.2. **Contracts made in the corporation’s name prior to registration**

The formation of an S.A. is a two-step process involving, as noted, execution of a public deed before a notary and registration at the Commercial Registry. It is only after registration of the public deed of formation that the corporation acquires legal personality and legal capacity. Persons who enter into contracts for and on behalf of the corporation prior to its registration are jointly and severally liable for their performance, unless such performance was made conditional on the corporation’s

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\(^4\) Moreover, there is an alternative little-used procedure for formation called “successive formation”, consisting of a public offering to subscribe shares prior to execution of the deed of formation. To this end, means such as advertising or financial intermediaries may be used.
registration and, if applicable, its later assumption of liability. Contracts made in the corporation’s name and on its behalf prior to its registration at the Commercial Registry may generally be ratified by the corporation within three months of registration.

However, a corporation in the process of formation and its shareholders (but not its directors or representatives) are liable, up to the limit of the amount they have undertaken to contribute, for the following types of contract prior to registration:

- Contracts that are essential for registration of the company.
- Contracts entered into by the directors within the scope of the powers granted to them in the pre-registration stage.
- Contracts entered into by virtue of a specific mandate granted by all the shareholders.

Upon registration, the corporation becomes bound by the foregoing acts and contracts. In these cases, and if the corporation ratifies acts performed prior to its registration within three months of the date of registration, the joint and several liability of the shareholders, directors or representatives lapses.

Moreover, it should be noted that directors will be deemed to have authority to fully pursue the corporate purpose and to perform and make all kinds of acts and contracts if the date of commencement of the company’s operations coincides with the date of execution of the deed of formation.

4.2.3. Acquisitions following the registration of a corporation at the Commercial Registry

In the case of corporations, in the two years following its formation, the shareholders’ meeting must grant its prior approval for acquisitions of assets for consideration involving amounts in excess of 10% of the capital stock, unless such acquisitions are within the ordinary scope of business of the corporation or the purchase is made on a stock exchange or by public auction. Where prior approval of the shareholders’ meeting is required, the following are basically necessary:

- Issuance of a report prepared by the directors.
- An independent valuation by the expert appointed by the Commercial Registry.

4.3. Company Bylaws

An S.L. and an S.A. are governed by the Capital Companies Law and by their bylaws. The bylaws should therefore be drafted in accordance with the requirements of the above law and must at least include reference to:
4. Main characteristics of corporations and limited liability companies

Table 4
MANDATORY REFERENCES

<table>
<thead>
<tr>
<th>Corporate name</th>
<th>The corporate name must be included.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporate purpose</td>
<td>This should be stated in a concrete and precise manner, since:</td>
</tr>
<tr>
<td></td>
<td>• It serves to establish the general framework for the activities of the company.</td>
</tr>
<tr>
<td></td>
<td>• The completion of the stated purpose automatically leads to the dissolution of the company, unless the bylaws provide for an indefinite duration.</td>
</tr>
<tr>
<td></td>
<td>• If the corporate purpose is modified in such a way as to be entirely different, any dissenting shareholders and non-voting shareholders can withdraw from the company and are entitled to be reimbursed for their shares.</td>
</tr>
<tr>
<td>Registered office</td>
<td>Must be located in Spain, as must the competent body to decide on the creation, relocation and closure of branches.</td>
</tr>
<tr>
<td>Capital stock</td>
<td>Must indicate the capital stock and the shares into which it is divided. In the case of the entrepreneurial limited liability company, the bylaws must state this circumstance (see section 4.2 above).</td>
</tr>
<tr>
<td>Managing body</td>
<td>The management of the company can be entrusted to a sole director, a number of directors acting severally or jointly or a board of directors. The bylaws may establish different means of organizing the management, giving the shareholders’ meeting authority to choose between any of them without the need to amend the bylaws. In the case of collective management bodies, the procedures for debating matters and adopting resolution must be specified, as must the system for director remuneration, if any.</td>
</tr>
</tbody>
</table>

Additionally, the public deed of formation, which includes the bylaws, may contain such agreements and covenants as the founders may deem fit, provided that they do not contravene any law or the fundamental principles that govern companies. Thus, the bylaws may include, inter alia, the following aspects:

• Duration of the company. The bylaws will ordinarily stipulate that the duration is indefinite in order to avoid triggering automatic dissolution.

• The date on which activities commence, which cannot be earlier than the date of execution of the public deed of formation (except in cases of reregistration).

• Restrictions, if any, on share transfers and the grounds for removal of any of the shareholders.

• Ancillary obligations, if any. If ancillary obligations are created, the bylaws must state the content of such obligations, whether or not they are remunerated, and the penalties, if any, for a breach thereof.
4. Main characteristics of corporations and limited liability companies

- The fiscal year-end. Where not expressly indicated, the company’s fiscal year will be understood to end on December 31. The fiscal year may not exceed twelve months.

- Special rights reserved to founders or promoters, if any.

4.4. Types of shares

4.4.1. Types of shares at a corporation

A distinction can be made between the following share categories:

<table>
<thead>
<tr>
<th>Table 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>TYPES OF SHARES AT A CORPORATION</td>
</tr>
</tbody>
</table>

**Registered vs. bearer shares**

The shares of an S.A. can be registered or bearer shares. However, the shares must be registered in the following cases:

- If they are not fully paid in.
- If their transferability is subject to restrictions.
- If they are subject to ancillary obligations (see below).
- When so required by special regulations (e.g. shares of banks and insurance companies).

**Common vs. preferred stock**

Preferred stock may be created as a separate class or classes pursuant to the same procedural formalities applicable to bylaw amendments (i.e. quorum and voting requirements and method of calling the shareholders’ meeting), and may include shares entitled to a preferential dividend.

In any event, issues of shares will not be valid in the following cases:

- Shares remunerated in the form of interest.
- Shares which directly or indirectly alter the proportionality between their par value and voting rights or the existing shareholders’ preferential right to subscribe new shares in capital increases.

Specific regulations on the issuance of preferred stock differ according to whether or not a company is listed on a stock exchange.

In the case of *listed companies*, the following obligations are established:

- Where the privilege consists of the right to obtain a preferential dividend, when distributable profits exist the company is obliged to distribute such preferential dividend.
- The company bylaws must establish the consequences of any failure to pay some or all of the preferential dividend, whether or not it is cumulative as regards unpaid dividends, and the possible rights of holders of privileged shares in connection with any dividends to which the ordinary shares may be entitled.
4. Main characteristics of corporations and limited liability companies

---

Table 5 (cont.)

**TYPES OF SHARES AT A CORPORATION**

| Shares issued with a premium | Shares may be issued with a premium payable to the company above their par value. In such cases the premium must be fully paid in upon subscription of the shares. |
| Non-voting stock | Non-voting stock may be issued for a total par value that does not exceed one-half of the total paid-in capital. The special rights attached to non-voting stock are as follows: |

  - Minimum annual dividend:

    The minimum annual dividend shall be set by the bylaws as a percentage of the paid-in capital corresponding to each non-voting share. The minimum annual dividend and ordinary dividends are cumulative for a period of five years in the case of non-listed companies. In the case of listed companies this period will be indefinite. Accordingly, non-voting shares also participate in company profits proportionately with the other shares if an ordinary dividend is distributed.

  - Preferential rights in liquidation:

    In the event of liquidation of the company, non-voting shareholders rank above common shareholders with respect to their right to obtain reimbursement of the paid-in portion of their shares.

  - Capital reduction:

    If capital is reduced to offset losses, the reduction must first be applied against all other classes of stock before it can affect non-voting stock.

  - Shareholder rights:

    Non-voting stock has the same basic rights as common stock except for the right to vote at shareholders’ meetings (see description of basic shareholder rights below).

However, under certain exceptional circumstances, holders of non-voting shares may acquire a transitional right to vote at shareholders’ meetings. Two examples follow:

  - Non-voting shareholders acquire the right to vote if the minimum annual dividend is not distributed.

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Appendix I. Company and commercial law
13
4. Main characteristics of corporations and limited liability companies

Table 5 (cont.)

<table>
<thead>
<tr>
<th>TYPES OF SHARES AT A CORPORATION</th>
</tr>
</thead>
</table>

- If, due to a capital reduction, all common shares are redeemed, then nonvoting stock becomes voting stock until such time as equilibrium is restored between voting and non-voting stock (i.e. new common shares are issued in sufficient number so that the total par value of non-voting stock does not exceed one-half of the total paid-in capital). If equilibrium is not restored within two years, the company is subject to mandatory dissolution.

**Redeemable shares**

Redeemable shares are a type of preferred shares at listed companies, subject at all times to various terms and conditions. Redeemable shares are those whose redemption or full or partial purchase by the issuer or by third parties is fixed in time or released at the discretion of the shareholder, according to the conditions of the issue; or those whose redemption or full or partial purchase by the issuer or by third parties is undertaken in any other manner, excluding that detailed above.

**Shares with ancillary obligations**

An ancillary obligation is an obligation to perform or refrain from performing certain acts. Ancillary obligations do not form part of the capital stock of the company. The shares of an S.A. can only be paid for with money or assets and not with work or services. The ancillary obligation is a device whereby the work, services or other obligations of individual shareholders can be tied to the corporation.

**4.4.2. Share certificates**

In general, shares of an S.A. may either be issued physically as certificates or recorded by a book-entry system. The conditions for recording shares under a book-entry system and the regulations governing this system are set out in the Securities Market Law (Law 24/1988, of July 28), and its various legislative amendments.

**4.5. Basic rights of corporation and limited liability company shareholders**

The basic rights of shareholders are as follows:

- Right to share in corporate earnings and assets upon liquidation.

- Preferential right to subscribe new shares or convertible bond issues.

- Right to attend shareholders’ meetings. At limited liability companies, the bylaws cannot require a minimum number of shares in order to attend meetings. Nonetheless, in the case of corporations, the bylaws may require that a minimum number of shares (regardless of their class or series) be held with respect to all of the shares in order to attend shareholders’ meetings, however the number required may not exceed one thousandth of the capital stock under any circumstances.
4. Main characteristics of corporations and limited liability companies

- Right to attend and vote at shareholders’ meetings (except non-voting stock) and to challenge corporate resolutions.

- Right to obtain information about the company’s affairs.

4.6. Governing bodies

The governing bodies of a company (a limited liability company or a corporation) are the shareholders’ meeting and the directors (who may or may not be organized as a board of directors, as explained below).

4.6.1. Shareholders’ meetings

The shareholders’ meeting is the supreme governing body of an S.A. or S.L.

The following table sets out the main aspects and characteristics of shareholders’ meetings:

<table>
<thead>
<tr>
<th>SHAREHOLDERS’ MEETINGS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Types</strong></td>
</tr>
</tbody>
</table>

**Ordinary:** An ordinary shareholders’ meeting may be held as and when stipulated by the bylaws, provided it takes place within the first six months of the financial year, in order to review the management’s conduct of the business and to approve, if appropriate, the financial statements of the prior year and the proposed distribution of profit. If the ordinary shareholders’ meeting is not held within the legal term, it may be called by a court, at the request of the shareholders and subject to a prior meeting with the directors.

**Special:** Any meeting of the shareholders other than an ordinary meeting is a special shareholders’ meeting. A special shareholders’ meeting may be called:

- By the company’s directors if and when they consider it in the company’s interests to do so.
- By the company’s directors when requested to do so by shareholders representing at least 5% of capital stock. In this case, the directors must call the meeting so requested to be held within two months of the date of the notarial notification in such connection.
- By a court if the directors disregard the notification referred to above.

**Venue:** Both ordinary and special shareholders’ meetings must be held in the municipality in which the company has its registered office (Spanish corporations must be domiciled in Spain).
### SHAREHOLDERS’ MEETINGS

#### Meeting call
- The formal requirements for calling a meeting, which relate to publicity and advance notice, are the same for ordinary and special meetings.
- Shareholders’ meetings must be called by way of an announcement published on the website of the company where it has been created, registered and published on the terms provided for in the Capital Companies Law. Where the company has not resolved on the creation of its website or the website is not yet duly registered and live, the call must be published in the Official Commercial Registry Gazette and one of the large circulation newspapers of the province in which its registered office is located.
- As an alternative to the call methods detailed in the preceding paragraph, the bylaws of corporations and limited liability companies with registered shares may provide for calls to be made by any form of individual, written notice ensuring the receipt of the notice by all of the shareholders at the address designated for such purpose or that recorded in the company documentation. In the case of shareholders residing abroad, the bylaws may provide that they will only be individually called if they have designated an address for notifications in Spain.

#### Universal shareholders’ meetings
Regardless of the type of shareholders’ meeting (ordinary or special), the formal call requirements need not be followed if shareholders representing one hundred percent of the capital stock are present and unanimously agree to hold a shareholders’ meeting. Such meetings are called universal shareholders’ meetings.

#### Quorum for meetings to be deemed to have been validly convened

<table>
<thead>
<tr>
<th>Category</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>S.L.</td>
<td>One third of the votes corresponding to the shares into which the capital stock is divided.</td>
</tr>
<tr>
<td>S.A.</td>
<td>On 1st call:</td>
</tr>
<tr>
<td></td>
<td>- <strong>General rule:</strong> Where the attendees represent at least 25% of the voting capital stock (the bylaws may provide for a higher percentage).</td>
</tr>
<tr>
<td></td>
<td>- <strong>Special resolutions:</strong> In order to validly resolve on a capital increase or reduction or any other amendment to the company bylaws, the issue of debentures, the elimination or limitation of preemptive acquisition rights over new shares, as well as reregistrations, mergers, spin-offs and the global transfer of assets and liabilities or the relocation of the registered office abroad, the shareholders present in person or by proxy must represent at least 50% of the subscribed voting capital stock.</td>
</tr>
</tbody>
</table>
4. Main characteristics of corporations and limited liability companies

Table 6 (cont.)
SHAREHOLDERS’ MEETINGS

- **On 2nd call (due to the absence of sufficient quorum on 1st call):**
  - **General rule:** The meeting will be deemed to have been validly convened regardless of the percentage of the capital stock present or represented.
  
  - **Special resolutions:** In order to validly resolve on a capital increase or reduction or any other amendment to the company bylaws, the issue of debentures, the elimination or limitation of preemptive acquisition rights over new shares, as well as reregistrations, mergers, spin-offs and the global transfer of assets and liabilities or the relocation of the registered office abroad, the shareholders present in person or by proxy must represent at least 25% of the subscribed voting capital stock.
  
  - The company bylaws may provide for special requirements for meeting calls and quorums that may not be less than those required by the Capital Companies Law (those described above) under any circumstances.

<table>
<thead>
<tr>
<th>Majorities for the adoption of resolutions</th>
<th>S.L.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General rule:</strong> A majority of the votes validly cast where they represent at least one-third of the votes under the shares into which the capital stock is divided (blank votes do not count).</td>
<td></td>
</tr>
<tr>
<td><strong>Qualified majorities:</strong></td>
<td></td>
</tr>
<tr>
<td>- A capital increase or reduction and any other amendment to the company bylaws will require the affirmative vote of at least one half of the votes corresponding to the shares into which the capital stock is divided.</td>
<td></td>
</tr>
<tr>
<td>- Authorization so that directors may pursue, for their own account or the account of others, the same, similar or supplementary types of activities as those under the corporate purpose; the elimination or limitation of preemptive rights under capital increases; reregistrations, mergers, spin-offs, global transfers of assets and liabilities and relocations of the registered office abroad and the removal of shareholders will require the affirmative vote of at least two-thirds of the votes corresponding to the shares into which the capital stock is divided.</td>
<td></td>
</tr>
<tr>
<td>- In addition to the proportion of votes established by the law and the bylaws, the bylaws may require the affirmative vote of a certain number of shareholders.</td>
<td></td>
</tr>
</tbody>
</table>
### SHAREHOLDERS’ MEETINGS

**S.A.**

- **General rule:** An ordinary majority (more votes in favor than against) of the votes of the shareholders present in person or by proxy.
- **Qualified majorities:** A capital increase or reduction and any other amendment to the company bylaws, the issue of debentures; the elimination or limitation of the right to acquire new shares; reregistrations, mergers, spin-offs, global transfers of assets and liabilities and relocations of the registered office abroad, and the removal of shareholders: where the capital stock present in person or by proxy exceeds 50%, it will be sufficient for the resolution to be adopted by an absolute majority. However, the affirmative vote of at least two-thirds of the capital stock present in person or by proxy at the shareholders’ meeting will be required where, on second call, shareholders are present that represent twenty-five percent or more of the subscribed voting capital stock but less than fifty percent.
- The company bylaws may increase the above majorities.

**Proxies**

**S.L.**

- Shareholders may only be represented at shareholders’ meetings by their spouse, ascendants or descendants, by another shareholder or by a person with general powers conferred in a public document with authority to manage all of the assets owned by the principal in the country.
- The bylaws may authorize representation by other persons.
- Representative authority must be conferred in writing. Where not recorded in a public document, it must be specially conferred for each shareholders’ meeting.
- The representative authority will relate to all of the shares held by the represented shareholder.

**S.A.**

- All shareholders entitled to attend may be represented at the shareholders’ meeting by another person, even where such person is not a shareholder, unless otherwise provided for in the bylaws.
- Representative authority must be conferred in writing or by a means of distance communication that meets the requirements established by the law for the exercise of distance voting rights and on a special basis for each shareholders’ meeting.

### 4.6.2. Directors

An S.A.’s executive governing body is its director or directors, who need not be Spanish citizens.

The board of directors represents the company in dealings with third parties in all acts within the scope of its corporate purpose. The company is bound to any third parties who have acted in good faith and without serious negligence, even with respect to acts outside the scope of its corporate purpose as registered at the Commercial Registry. Any limitation on the representative powers of the managing body, even if registered at the Commercial Registry, is not binding on third parties.

- The management may be entrusted to:
  - A sole director.
4. Main characteristics of corporations and limited liability companies

- Several directors acting on a several or joint basis.

- A board of directors. Resolutions may be validly adopted in writing and without holding a meeting, provided certain requirements are met.

The bylaws may establish different means of organizing the management, granting the shareholders’ meeting authority to choose between any of them without the need to amend the bylaws.

Where there is a board of directors, it must comprise (i) in the case of limited liability companies, a minimum of three and a maximum of twelve members; and (ii) in the case of corporations, a minimum of three members, with no maximum statutory limit whatsoever.

A director is normally not required to be a shareholder unless the bylaws expressly provide otherwise.

Directors are appointed by the shareholders’ meeting.

Appointment as a director becomes legally effective when accepted by the appointee and must be registered at the Commercial Registry within a stipulated period of time.

The term of office of directors is expressed in the bylaws. In the case of limited liability companies, the term may be indefinite, while in the case of corporations it may not exceed six years, and directors may be reelected for one or more additional periods of not more than six years. The term of office must be the same for the board members.

The shareholders’ meeting can freely dismiss the directors at any time.

The following paragraphs refer to some special features of a board of directors:

<table>
<thead>
<tr>
<th>Table 7</th>
<th>BOARD OF DIRECTORS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Powers</strong></td>
<td>The board may delegate its functions to one or more managing directors or to an executive committee of board members. However, the board cannot delegate the following powers:</td>
</tr>
<tr>
<td>a)</td>
<td>The supervision of effective functioning of the committees it has constituted and the actions of the delegated bodies and executives it has appointed.</td>
</tr>
<tr>
<td>b)</td>
<td>The determination of the company’s general strategies and policies.</td>
</tr>
<tr>
<td>c)</td>
<td>The authorisation or waiver of the obligations deriving from the duty of loyalty.</td>
</tr>
</tbody>
</table>
### BOARD OF DIRECTORS

<table>
<thead>
<tr>
<th>Board of directors</th>
</tr>
</thead>
<tbody>
<tr>
<td>d) Its own organisation and functioning.</td>
</tr>
<tr>
<td>e) The preparation of the annual accounts and their presentation to the general meeting.</td>
</tr>
<tr>
<td>f) The making of any kind of report required by law of the board of directors, provided that the operation covered by the report is nondelegable.</td>
</tr>
<tr>
<td>g) The appointment and removal of managing directors of the company, as well as the establishment of the terms of their contracts.</td>
</tr>
<tr>
<td>h) The appointment and removal of the executives reporting directly to the board or any of its members, as well as the establishment of the basic terms of their contracts, including their compensation.</td>
</tr>
<tr>
<td>i) The decisions related to compensation of directors, within the framework set by the articles and, if applicable, the compensation policy approved by the general meeting.</td>
</tr>
<tr>
<td>j) The call of the general meeting of shareholders and the preparation of the agenda and proposed resolutions.</td>
</tr>
<tr>
<td>k) The policy regarding treasury shares or quotas.</td>
</tr>
<tr>
<td>l) The powers the general meeting has delegated to the board of directors, unless expressly authorised by it to subdelegate them.</td>
</tr>
</tbody>
</table>

**Adoption of resolutions by the board**

The quorum for a board meeting is the presence, either in person or by proxy, of one-half plus one of the board members.

**Majorities for the adoption for resolutions**

- Generally, by an absolute majority of the directors attending (in person or by proxy).
- Exceptionally, for permanent delegation of board powers, by the affirmative vote of two-thirds of the board’s members; such delegation is not legally valid until it has been registered at the Commercial Registry.

**Liability of directors**

- Directors are must comply with the duty of diligent administration, faithful defense of the corporate interests, loyalty and secrecy.
- Directors are liable to the company, its shareholders and its creditors for damage caused by acts that are illegal, contrary to the bylaws or carried out in breach of the duties specific to the office.
- In such cases, all directors are jointly and severally liable. A director can only be released from liability if he/she proves that he/she did not participate in the adoption or execution of the resolution and that he/she was unaware of the existence of the harmful act or, if he/she was aware of it, did everything reasonably possible to mitigate it or at least expressly opposed the resolution giving rise to the harm.

**Powers of attorney**

In addition to the powers vested in the board of directors, general powers of attorney may be conferred upon any person, whether or not a director, in which case they must be documented in a public deed of power of attorney registered at the Commercial Registry.

**Meetings**

The board must meet at least once a quarter; that is, four times a year.
4.6.3. Requirements for the adoption of resolutions at shareholders’ and board meetings

The legal or bylaw requirements for the exercise of certain rights and the adoption of resolutions at both shareholders’ and board meetings of S.A.s and S.L.s are as follows:

<table>
<thead>
<tr>
<th>Corporations</th>
<th>Capital Companies Law</th>
<th>Limited Liability Companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article</td>
<td>Minimum stake required</td>
<td>Minority shareholders’ rights at an S.A. or S.L.</td>
</tr>
<tr>
<td>a) Common general aspects:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Art. 203</td>
<td>1%</td>
<td>Right to request the presence of a notary to record the minutes of the shareholders’ meeting.</td>
</tr>
<tr>
<td>Art. 168</td>
<td>5%</td>
<td>Right to request the calling of a shareholders’ meeting.</td>
</tr>
<tr>
<td>Art. 238.2</td>
<td>5%</td>
<td>Right to oppose a waiver of an action for liability against directors.</td>
</tr>
<tr>
<td>Art. 239</td>
<td>5%</td>
<td>Right to file an action for liability of directors if such claim has not been filed by the company itself.</td>
</tr>
<tr>
<td>Art. 251</td>
<td>1%</td>
<td>Right to contest any resolution adopted by the board of directors.</td>
</tr>
<tr>
<td>Art. 265.2</td>
<td>5%</td>
<td>Right to request that the Commercial Registry appoint an auditor in the case of companies not obliged to submit their annual accounts to audit by an auditor.</td>
</tr>
<tr>
<td>Art. 381.1</td>
<td>5%</td>
<td>Right to request that the Commercial Registry appoint a receiver to monitor the liquidation process.</td>
</tr>
<tr>
<td>Art. 266</td>
<td>Any shareholder</td>
<td>Right to request that the Commercial Registry revoke the appointment of an auditor when there is just cause, and appoint another.</td>
</tr>
<tr>
<td>Art. 197.4</td>
<td>25%</td>
<td>Right to request the information deemed appropriate for the holding of shareholders’ meetings (which cannot be refused by the directors).</td>
</tr>
<tr>
<td>Art. 172.1</td>
<td>5%</td>
<td>Right to request an addition to the notice calling a shareholders’ meeting in order to include one or more items on the agenda.</td>
</tr>
</tbody>
</table>
4. Main characteristics of corporations and limited liability companies

Table 8 (cont.)
ADOPTION OF RESOLUTIONS AT SHAREHOLDERS’ AND BOARD MEETINGS

<table>
<thead>
<tr>
<th>Corporations</th>
<th>Capital Companies Law</th>
<th>Limited Liability Companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article</td>
<td>Minimum stake required</td>
<td>Minority shareholders’ rights at an S.A. or S.L.</td>
</tr>
<tr>
<td>b)</td>
<td>The quorums of attendance and majorities required to adopt resolutions at shareholders’ and board meetings of corporations are as follows:</td>
<td></td>
</tr>
<tr>
<td>Art. 193.1</td>
<td>25%</td>
<td>Quorum on first call for shareholders’ meetings. No quorum is required on second call. In any event, a simple majority is required for the adoption of resolutions.</td>
</tr>
<tr>
<td>Art. 194.1</td>
<td>50%</td>
<td>Quorum on first call for meetings in special circumstances, such as issuance of debentures, increase or reduction of capital, re-registration, merger, spin-off or any other amendment of the bylaws.</td>
</tr>
<tr>
<td>Art. 194.2</td>
<td>25%</td>
<td>Quorum on second call for meetings in special circumstances, such as issuance of debentures, increase or reduction of capital, re-registration, merger, spin-off or any other amendment of the bylaws. If shareholders representing less than 50% of the subscribed voting capital are present at such meetings, a 2/3 majority of the capital present or represented is required for the adoption of resolutions.</td>
</tr>
<tr>
<td>Art. 248.1</td>
<td>&gt; 50%</td>
<td>Required majority of votes cast by members present or represented for the adoption of resolutions by the board of directors.</td>
</tr>
<tr>
<td>Art. 249.3</td>
<td>66%</td>
<td>Required majority of votes cast by members of the board of directors present or represented for the permanent delegation of authority to the Executive Committee or in the managing director.</td>
</tr>
<tr>
<td>c)</td>
<td>The quorums and voting majorities required for the adoption of resolutions at shareholders’ and board meetings of limited liability companies are as follows:</td>
<td></td>
</tr>
<tr>
<td>Art. 198</td>
<td>Simple majority of the votes cast, provided that it represents least 33% of the capital</td>
<td>Quorum for meetings the agenda of which includes resolutions not listed in Article 199.a) or 199.b).</td>
</tr>
<tr>
<td>Art. 199.a)</td>
<td>&gt; 50%</td>
<td>Required majority of votes for resolutions to increase or reduce capital or to amend the bylaws in any way.</td>
</tr>
<tr>
<td>Art. 199.b)</td>
<td>≥ 66%</td>
<td>Required majority of votes for resolutions such as re-registration, merger, spin-off, removal of members, etc.</td>
</tr>
<tr>
<td>Art. 245.1</td>
<td>-</td>
<td>Majority of votes required in the bylaws for the adoption of resolutions by the board of directors.</td>
</tr>
<tr>
<td>Art. 249.3</td>
<td>≥ 66%</td>
<td>Required majority of votes cast by members of the board of directors present or represented for the delegation of authority to the Executive Committee or the managing director.</td>
</tr>
</tbody>
</table>
5. European Public Limited-Liability Company (S.E.)

5. EUROPEAN PUBLIC LIMITED-LIABILITY COMPANY (S.E.)

Regulation (EC) no. 2157/2001, of October 8, 2001, approving the bylaws for a European Company (S.E.), regulates the legal framework currently in force within the EU for this new type of European corporate entity. Law 19/2005, of November 14, 2005, which regulates S.E.s domiciled in Spain, adopted the necessary measures to guarantee the effectiveness of the directly applicable rules included in the Regulation, amending the repealed Corporations Law and including a new chapter. Moreover, this Regulation has been supplemented in Spain by Law 31/2006, of October 18, 2006 regulating the involvement of employees of European corporations and cooperatives, transposing Council Directive 2001/86/EC, of October 8, 2001.

- Concept: An S.E. offers companies carrying on business in various Member States the possibility of setting up as a single company under EU regulations and operating in the EU under a single legislation and a unified administrative and declaration system. For companies acting in different Member Estates, an S.E. offers the possibility of reducing administrative costs with a legal framework adapted to EU regulations.

- Main characteristics:
  - An S.E. will always be considered a derivative company since it can only be founded by other pre-existing companies. In other words, individuals are not allowed to create this type of company.
  - Need for the existence of a European multinational nature in the process of association giving rise to the formation of an S.E. In this regard, although there are different procedures for forming an S.E., there are two unavoidable requirements common to all with a view to preserving this European multinational nature:
    - That only entities formed pursuant to the legislation of a specific member state be involved in the formation of an SE, and their registered office and central management must also be located in the EU.
    - At least two of the entities involved must be subject to the legislation of different member states.
  - The subscribed capital may not be less than €120,000, although the minimum required capital can be higher in specific cases contemplated under Spanish legislation for companies pursuing certain activities (i.e. lending institutions). The Spanish legislation governing corporations will also apply to share subscription, payment, ownership and transfers.
  - S.E.s can only be formed as follows:
    - Merger: The merged companies must be subject to the legislation of different member states.
5. European Public Limited-Liability Company (S.E.)

- Formation of a holding S.E.: Provided that at least two of the companies are governed by the law of a different Member State, or for at least two years have had a subsidiary company governed by the law of another Member State or a branch located in another Member State.

- Formation of a subsidiary S.E.: Provided that at least two of the companies are governed by the law of a different Member State, or for at least two years have had a subsidiary company governed by the law of another Member State or a branch located in another Member State.

- Re-registration of an existing S.A.: Provided that for at least two years it has had a subsidiary company governed by the law of another Member State.

  — S.E.s must be registered at the Commercial Registry of its registered office.

  — The governing bodies are:

    - A shareholders’ meeting.

    - A managing body (one-tier system) or a managing body and an oversight body (dual system), per the option adopted in the bylaws.

  — Shareholder’s liability is, in principle, limited to the subscribed capital.

  — The name of an S.E. must be preceded or followed by the abbreviation S.E.

  — From a labor standpoint, Law 31/2006 establishes certain rights of information, consultation and participation of the workers in the corporate bodies of an S.E. for cases in which such involvement already existed within the founding companies at the time of the formation of the S.E. (as is currently the case in Germany, Austria and the Nordic countries). This is to ensure the participation of the workers in the S.E. for the purposes of allowing them to have an influence on any decisions to be adopted within the company which directly affect them.

    Furthermore, the recent Law 10/2011 attempts to reinforce the influence of employees on a company’s intentions, emphasizing the need to exercise their rights to information and consultation before decisions are effectively made.

In general terms, an S.E. is an effective investment vehicle for companies that already have a business presence in the EU and wish to invest in Spain.

While an S.E. has the disadvantage of being a new legal vehicle which, in certain cases, may allow a greater participation of the employees in the management decisions of the company, it has the advantage that its legal framework is known in all EU countries.
6. New limited liability company

6. NEW LIMITED LIABILITY COMPANY

The intention of the lawmakers is to encourage the creation of small and medium-sized companies, simplifying the requirements for their formation and the pursuit of their activity, as can be inferred from the main features that distinguish an S.L.N.E. from a limited liability company, as detailed below:

Table 9

<table>
<thead>
<tr>
<th>Feature</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registration</td>
<td>An S.L.N.E. can be registered, using a single electronic document together with the public deed of formation, within 48 hours of the execution of the deed.</td>
</tr>
<tr>
<td>Name</td>
<td>When forming the company, the corporate name must include the name and two surnames of one of the shareholders followed by an alphanumeric code, and the reference “Sociedad Limitada Nueva Empresa” or the abbreviation “S.L.N.E.”. This must be modified where the shareholder ceases to hold such status. The corporate name must include the name of one of the shareholders only on formation of the company. Subsequently, under an amendment to the company’s bylaws and subject to prior clearance from the Central Commercial Registry, any name may be adopted.</td>
</tr>
<tr>
<td>Capital stock</td>
<td>The capital stock may not be less than €3,000 or more than €120,000, and may only be paid in with monetary contributions. If the capital stock exceeds €120,000, the company must be reregistered.</td>
</tr>
<tr>
<td>Shareholders</td>
<td>Only individuals can be shareholders of a New Limited Liability Company. On the date of formation, an S.L.N.E. may not have more than 5 shareholders, although this number can be increased later. A shareholder may only be a sole shareholder of one S.L.N.E.</td>
</tr>
<tr>
<td>Members of the managing body</td>
<td>Must have shareholder status. This body may never take the form of a board of directors.</td>
</tr>
<tr>
<td>Corporate purpose</td>
<td>Any or all of the activities provided for in Law 7/2003: farming, livestock farming, forestry, fishing activity, industrial activity, construction, commercial, tourism, transport, communications, brokerage, professional or services in general. Moreover the corporate purpose may include different individual activities.</td>
</tr>
<tr>
<td>Tax and legal obligations</td>
<td>An S.L.N.E. may fulfill its accounting and tax duties by means of a single record.</td>
</tr>
<tr>
<td>Deferral of tax payments</td>
<td>Law 7/2003 indicates that an S.L. N. E may defer the payment of certain taxes and/or withholdings and prepayments by between one and two years, without having to grant any security albeit paying late-payment interest.</td>
</tr>
</tbody>
</table>
7. Professional Services Firm (S.P.)

7. PROFESSIONAL SERVICES FIRM (S.P.)

Pursuant to Professional Services Firms Law 2/2007, of March 15, 2007 the regulations governing a type of company known as a Professional Services Firm (S. P.) entered into force. The purpose of the above Law is to set in place a regulatory framework governing the common pursuit by several members of a professional activity under a specific corporate form.

Thus, professional services firms are characterized by three specific general features:

Table 10

<table>
<thead>
<tr>
<th>PROFESSIONAL SERVICES FEATURES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Corporate purpose</strong></td>
</tr>
<tr>
<td>Their corporate purpose can only be the common pursuit by various members of a professional activity (meaning an activity the pursuit of which requires an official university or professional qualification and registration with a professional association). This feature also implies that all firms that have such purpose must necessarily be formed as professional services firms.</td>
</tr>
<tr>
<td><strong>Professional members</strong></td>
</tr>
<tr>
<td>The professional members must have a stake in the company’s capital (“professional members” meaning individuals or other professional services firms that meet the requirements necessary to engage in the professional activity).</td>
</tr>
<tr>
<td><strong>Corporate forms</strong></td>
</tr>
<tr>
<td>Professional services firms may be formed in accordance with any of the forms provided for in the law, provided that they meet the specific requirements included in the Professional Services Firms Law.</td>
</tr>
<tr>
<td><strong>Specific requirements</strong></td>
</tr>
<tr>
<td>• Three quarters of the capital and of the voting rights, or three quarters of the firm’s assets and of the number of members at non-corporate enterprises, must belong to professional members.</td>
</tr>
<tr>
<td>• Three quarters of the members of the managing body must be professional members. Where the managing body has a single member or there are managing directors, such duties must necessarily be performed by a professional member. In any event, the resolutions of collective managing bodies will require the affirmative vote of the majority of the professional members, regardless of the number of the members present.</td>
</tr>
<tr>
<td>• The professional activity will be pursued in accordance with the code of ethics and disciplinary rules specific to the professional activity in question, with the grounds for incompatibility or disqualification of the members affecting the company itself. A professional services firm may also be fined on the terms established in the disciplinary rules that apply under its professional code.</td>
</tr>
<tr>
<td>• Broadly speaking, to transfer the status of professional member, it is necessary to have the consent of all of the professional members, unless the firm’s bylaws permit transfers by an agreement of the majority of the members.</td>
</tr>
<tr>
<td>• Must be registered at the Commercial Registry and the Registry of Professional Services Firms of the relevant professional association.</td>
</tr>
<tr>
<td>• The distribution of income or allocation of loss may be based on or modified according to the contribution made by each member to the sound running of the firm.</td>
</tr>
<tr>
<td>• Professional services firms must arrange for an insurance policy that covers the liability they may incur in the course of the activity or activities that make up their corporate purpose.</td>
</tr>
</tbody>
</table>
8. Sole-shareholder companies

8. SOLE-SHAREHOLDER COMPANIES

Under the Law, which applies in this respect to both S.A.s and S.L.s, either of these corporate forms can be set up as, or can subsequently become, a sole-shareholder company.

Such companies are subject to a specific regime entailing special reporting and registration requirements. For example, the fact that a company has a single owner has to be registered at the relevant Commercial Registry and acknowledged on all company correspondence and commercial documentation. Likewise, contracts between the company and its sole owner need to be recorded in a special company register (the book of contracts with the sole shareholder).

In general, such requirements may be deemed for the purpose of providing information, although compliance is of the utmost importance since, if six months elapse from the date on which the company acquires sole shareholder status without such circumstance having been registered at the Commercial Registry, the sole shareholder will bear personal, unlimited and joint and several liability for any company debts assumed during the period of sole-shareholder status.
9. Branches

9. BRANCHES

9.1. Creation of a branch

In addition to the forms of business enterprise created under Spanish law with separate legal personality, a foreign investor may operate in Spain through a branch.

The opening of a branch requires the execution of a public deed, which must be registered at the Commercial Registry, together with the formalities indicated in section 5 of Chapter 2.

From a foreign investment legislation viewpoint, the branch must have an allocated capital, which is not subject to any minimum amount requirement.

The branch must have a legal representative who is empowered by the head office to administer the affairs of the branch. Apart from this requirement, there are no formal governing or management bodies.

Aside from the obvious differences in terms of internal structure and organization, a branch operates much like a company in its dealings with third parties.

The choice between forming a branch or a legal entity in Spain may be affected by commercial reasons; for example, a company may be deemed to provide a more “solid” presence than a branch.

There are also other differences which are addressed in different chapters of this publication.

9.2. Branch vs. subsidiary (whether S.A. or S.L.)

From a legal standpoint, the main differences between a branch and a subsidiary are as follows:

<table>
<thead>
<tr>
<th>Concept</th>
<th>Corporation</th>
<th>Limited liability company</th>
<th>Branch</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company of a commercial nature engaging in the pursuit of an economic activity, with a capital stock divided into shares and consisting of contributions by the shareholders, who, as a general rule, will be personally liable for company debts only up to the limit of the contribution made or promised.</td>
<td>Secondary establishment with a permanent representation and certain management independence, through which the activities of the head office are totally or partially pursued, and with no legal personality independent of that of the head office.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 9. Branches

**Table 11 (cont.)**

<table>
<thead>
<tr>
<th>BRANCH VS. SUBSIDIARY</th>
<th>Corporation</th>
<th>Limited liability company</th>
<th>Branch</th>
<th>Branch</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Capital stock</strong></td>
<td>€60,000</td>
<td>€3,000&lt;sup&gt;5&lt;/sup&gt;</td>
<td>No capital is required for the establishment of a branch, although for practical reasons it is advisable.</td>
<td></td>
</tr>
<tr>
<td><strong>Monetary and non-monetary contributions</strong></td>
<td>Monetary contributions must be made in the national currency, while non-monetary contributions, in the case of corporations, will require a report by an independent expert appointed by the Commercial Registrar.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Registration</strong></td>
<td>The company must be formed under a public deed to be filed with the Commercial Registry, acquiring legal personality upon registration.</td>
<td>Together with the public deed creating the branch, the documents evidencing the existence of the head office, the current bylaws, its directors and the decision to open the branch, duly legalized, must be registered with the Commercial Registry.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Shareholders’ meeting calls</strong></td>
<td>See section 9 above.</td>
<td>A branch does not have decision-making body in the form of a board or meeting, since its legal personality is that of the parent company.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Directors</strong></td>
<td>The bylaws may establish various types of managing bodies, granting the shareholders’ meeting authority to choose between them, without any need to amend the bylaws. The position of director will be not remunerated, unless the bylaws otherwise provide and establish the method of remuneration. See section 4.3 above.</td>
<td>The managing body of the head office will appoint a branch director to act as an attorney-in-fact of the head office at the branch. The director (as a general rule and subject to the limitations provided for in the powers of attorney) may pursue all the activities entrusted to the branch and registered at the Commercial Registry.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Share transfers</strong></td>
<td>Transfers are possible. See section 4.1 above.</td>
<td>Transfers must be recorded in a public document executed before a Spanish notary. Any bylaw provisions enabling practically unrestricted share transfers are prohibited.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<sup>5</sup> Except in the case of the entrepreneurial limited liability company, the rules for which are described in section 4.2 below.
9. Branches

Table 11 (cont.)

<table>
<thead>
<tr>
<th>BRANCH VS. SUBSIDIARY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporation</td>
</tr>
</tbody>
</table>

**Financial statements**

The directors of the company must, within not more than three months of the fiscal year-end, prepare the financial statements, the management report and the proposal for the distribution of profit, to be approved by the shareholders’ meeting within six months of the fiscal year-end.

As permanent establishments in Spain for tax purposes, branches must keep their own accounts with respect to the transactions they perform and their assets. Moreover, branches must deposit their parent company’s financial statements at the Commercial Registry or, in certain cases, the statements prepared in relation to the branch’s activity.

**Dividend distribution**

Should the profit be distributed as dividends, such distribution shall be made to the shareholders in proportion to the capital they have contributed. Payment of interim dividends is also possible.

Dividends do not exist, since profits pertain strictly to the parent company.
10. Representative office

10. REPRESENTATIVE OFFICE

In addition to commercial entities and branches, foreign investors may operate in Spain via a representative office. Noteworthy key features include:

<table>
<thead>
<tr>
<th><strong>Table 12</strong></th>
<th>REPRESENTATIVE OFFICE FEATURES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Legal personality</strong></td>
<td>It does not have its own legal personality independent from the parent company.</td>
</tr>
<tr>
<td><strong>Formalities for opening</strong></td>
<td>No commercial formalities are required to open a representative office, although for tax, a labor and social security reasons it might be necessary to execute a public deed (or document executed before a foreign public notary, duly certified by apostille or any other applicable legalization system), which must indicate the opening of the representative office, the funds allocated to the office, the identity of its tax representative, which must be a legal entity or individual resident in Spain, and its powers. The opening of a representative office need not be registered at the Commercial Registry.</td>
</tr>
<tr>
<td><strong>Managing body</strong></td>
<td>There are no formal managing bodies, but rather the representative of the office acts under the powers granted to him/her.</td>
</tr>
<tr>
<td><strong>Activities</strong></td>
<td>In principle, the activities of a representative office are limited, essentially comprising coordination, collaboration, etc.</td>
</tr>
</tbody>
</table>

The non-resident company is liable for all debts incurred by the representative office.
Entidad Pública Empresarial ICEX España Exportación e Inversiones (ICEX).

Published 2015

This guide was researched and written by Garrigues on behalf of ICEX-Invest in Spain.

This guide is correct to the best of our knowledge and belief at the date indicated below. It is, however, written as a general guide, so it is necessary that specific professional advice be sought before any action is taken.

Madrid, March 2015
Spain has a modern diversified financial system which is competitive and fully integrated with the international financial markets.

In Spain, as well as in the European Union, the deregulation of capital movements is complete, which enables the Spanish companies to obtain financing from abroad, as well as it makes investment much easier for foreign companies in Spain.

The Spanish markets are endowed with great transparency, liquidity and efficacy.

Since 2007, the economic and financial slowdown had a great impact on Spanish stock markets, as well as in other economies. Currently, volatility on the stock markets has moderated, associated to the growth in advanced economies. Likewise, the policies undertaken to promote the competitiveness of the Spanish economy have represented big investment opportunities. Even if 2013 was a challenging year, at the end of the year 2014 the stabilization of the economy could be observed, helped by an increasing foreign investment, the increase of exports and the recovery of the equity markets. This tendency has been continued and reinforced in 2014. In 2015, growth trend is expected to bring the desired definitive exit from the financial crisis, helped by the boost private consumption, foreign investment and tourism, expecting a global growth of the Spanish economy of 2.5% according to the International Monetary Fund.

As for the money market, this has become increasingly important as a result of the deregulation and greater flexibility of the Spanish financial system as a whole in the past few years, with a substantial volume of trading in money market instruments.

Lastly, more general and stronger protection for financial services customers has been provided. A stronger protection of the financial systems has also been provided through the regulation of obligations and procedures to prevent the use of said systems for money laundering and terrorist financing.

All these and other aspects of interest, such as the tax regime applicable to the main financial products available on the Spanish market are discussed in this chapter.
Annex II
The Spanish financial system

1. Introduction 3
2. Financial institutions 4
3. Market 33
4. Safeguards to protect financial services customers 48
1. Introduction

1. INTRODUCTION

From an institutional standpoint, a financial system can be defined as the group of institutions which generate, muster, administer and manage savings and investment in a political and economic system.

Spain has a diversified, modern, and competitive financial system, which is fully integrated within international financial markets.
2. Financial institutions

## 2. FINANCIAL INSTITUTIONS

The main operators in the Spanish financial system can be classified as follows:

<table>
<thead>
<tr>
<th>Table 1</th>
<th>FINANCIAL SYSTEM OPERATORS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Central bank</strong></td>
<td>Bank of Spain.</td>
</tr>
</tbody>
</table>
| **Credit institutions** | Spanish and foreign banks.  
Official Credit Institute (Instituto de Crédito Oficial, ICO).  
Savings Banks. Spanish Confederation of Savings Banks (Confederación Española de Cajas de Ahorro, CECA).  
Credit Cooperatives. |
| **Financial auxiliaries** | Credit Financial Establishments.  
Payment Institutions.  
Electronic Money Institutions.  
Mutual Guarantee and Counter-guarantee Societies.  
Valuation Companies. |
| **Collective investment Schemes** | Investment Funds.  
• Financial.  
• Non-financial. |
| **Investment Firms** | Investment Companies.  
• Financial.  
• Non-financial.  
Management Companies of Collective Investment Schemes. |
| **Closed-ended type Collective Investment Entities** | Broker-Dealers.  
Brokers.  
Portfolio Management Companies.  
Financial Advisory Firms.  
Venture Capital Entities, including SME Venture Capital Entities.  
Closed-ended type collective investment entities.  
European venture capital funds.  
European social entrepreneurship funds.  
Management companies of Closed-ended type Collective Investment Entities. |
| **Insurance and reinsurance companies and insurance intermediaries** | Insurance and Reinsurance Companies.  
Insurance Intermediaries.  
• Insurance Agents.  
• Insurance Brokers.  
• Reinsurance Brokers. |
2. Financial institutions

Table 1 (cont.)

FINANCIAL SYSTEM OPERATORS

<table>
<thead>
<tr>
<th>Pension Plans and Funds</th>
<th>Pension Plans.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Pension Funds.</td>
</tr>
<tr>
<td></td>
<td>Management Companies of Pension Funds.</td>
</tr>
<tr>
<td>Securitization vehicles</td>
<td>Mortgage Securitization Funds*.</td>
</tr>
<tr>
<td></td>
<td>Asset Securitization Funds.</td>
</tr>
<tr>
<td></td>
<td>Securitization Fund Managers.</td>
</tr>
</tbody>
</table>

* As of the date of publication of this Guide, the Lower House of the Spanish Parliament is debating the Bill on Promoting Business Finance (the "PLFFE"), which modifies the current securitization fund regime in Spain. Under the new legislation, the differentiation between mortgage securitization funds and asset securitization funds will disappear, leaving only asset securitization funds (notwithstanding any mortgage securitization funds already created and currently in force).

The key features of the financial system operators are described below.

2.1. Central bank

The Spanish Central bank is the Bank of Spain. It is the national central bank, entrusted with supervising the Spanish banking system, and its activities are regulated by the Law on the Autonomy of the Bank of Spain.

Following the creation of the European System of Central Banks (ESCB) and the European Central Bank (ECB), the Bank of Spain’s functions have been redefined as follows:

Table 2

FUNCTIONS OF THE BANK OF SPAIN

| Participation in the functions of the European System of Central Banks (ESCB) | • Defining and implementing monetary policy in the euro zone with the aim of maintaining price stability in the euro zone. |
|                                                                             | • Conducting foreign currency exchange transactions and holding and managing the Spanish State’s official foreign exchange reserves. |
|                                                                             | • Promoting the sound working of the euro zone payment system. |
|                                                                             | • Issuing legal tender banknotes. |

| Functions established in the Law on the Autonomy of the Bank of Spain | • Supervising the solvency and behavior of credit institutions and the financial markets. |
|                                                                      | • Promoting the sound working and stability of the financial system and of Spain’s payment systems. |
|                                                                      | • Preparing and publishing statistics on its functions. |
|                                                                      | • Providing treasury services and acting as a financial agent for government debt. |
|                                                                      | • Advising the Government and preparing the appropriate reports and studies. |
2. Financial institutions

The inclusion of the Bank of Spain in the Single Supervisory Mechanism.

Council Regulation (EU) 1024/2013 of October 15, 2013, has created a Single Supervisory Mechanism (SSM), which introduces a new financial supervision system made up of the European Central Bank (ECB) and the competent national authorities of the participating EU member states, which includes the Bank of Spain.

Its main objectives are to ensure the safety and soundness of the European banking system and to enhance financial integration and stability in Europe. In addition, the SSM plays a crucial role in ensuring a coherent and effective implementation of the Union’s policy relating to the prudential supervision of credit institutions.

Under additional provision sixteen of Law 10/2014, of June 26, 2014, on regulation, supervision and solvency of credit institutions, the Bank of Spain was included in the SSM in its capacity as a competent national authority, whereby the Bank of Spain will exercise its regulatory and supervisory powers, notwithstanding the functions entrusted to the ECB in the context of the SSM and in conjunction with this institution.

2.2. Credit institutions

The main credit institutions, i.e. banks, savings banks and credit cooperatives, play a particularly important role in the financial industry in Spain, because of the volume of their business and their presence in all segments of the economy. Credit institutions are authorized to engage in what is referred to as “universal banking”, i.e. not to confine themselves to traditional banking activities consisting merely of attracting funds and financing by granting loans and credit facilities, but also to provide para-banking, securities market, private banking and investment banking services.

However, with the aim of removing imbalances in the Spanish financial industry to permit its restructuring, significant changes are being made in the industry, mainly affecting groups of national banks and savings banks. Accordingly, the restructuring process is being carried out through concentrations of savings banks, banks and credit cooperatives, the conversion of savings banks into banks and recapitalization processes at certain institutions.

As of December 30, 2014, there are officially registered at the Bank of Spain 70 banks, 5 savings banks, 65 credit cooperatives, 43 representative offices in Spain of foreign credit institutions, 79 branches of non-Spanish EU credit institutions, 7 branches of non-EU credit institutions, 553 non-Spanish EU credit institutions operating in Spain without an establishment, 5 non-EU credit institutions, and 2 financial institutions, subsidiaries of a non-Spanish EU credit institution, operating in Spain without an establishment¹.

¹ www.bde.es.
2. Financial institutions

2.2.1. Banks

Banks are corporations (sociedades anónimas) legally authorized to perform the functions reserved to credit institutions.

Their key features are summarized below:

<table>
<thead>
<tr>
<th>Table 3</th>
<th>KEY FEATURES OF BANKS</th>
</tr>
</thead>
</table>
| **Basic regulations** | • Law 10/2014, of June 26, 2014, on regulation, supervision and solvency of credit institutions.  
• Royal Decree 1245/1995, of July 14, 1995, on the formation of banks, cross-border activity and other issues relating to the legal regime for credit institutions. |
| **Corporate purpose** | Restricted to the pursuit of typical banking activities and of the following activities reserved to credit institutions:  
• The typical and regular activity consisting in receiving funds from the general public in the form of deposits, loans, repurchase agreements or other similar transactions carrying a reimbursement obligation, using them for the bank’s account to grant credit or perform similar operations.  
• Raising funds from the general public, for whatever purpose, in the form of deposits, loans, repurchase agreements or other similar transactions that are not subject to regulatory or disciplinary provisions governing securities markets. |
| **Minimum capital** | • A sum of €18,030,363.13, which must be fully subscribed and paid in. |
| **Managing body** | • The Board of Directors must have no fewer than five members.  
• All the Board members must be persons of good business and professional repute.  
• All of the Board members, as well as the general managers, must have appropriate knowledge and experience.  
• Registration of the managers, directors and similar executives on the Register of Senior Officers. |
| **Shares** | • Shares must be registered. |
| **Formation of banks** | • Formation must be authorized by the Bank of Spain. Registration on the appropriate registers, and management of those registers, will also lie with the Bank of Spain.  
• Must be registered on the Special Register of the Bank of Spain. |

2.2.2. Official Credit Institute (ICO)

It is a State-owned credit institution, attached to the Ministry of Economy and Competitiveness through the Office of the Secretary of Economy and Business Support.

It acts as the State’s finance agency, providing financing pursuant to express instructions from the Government to those affected by serious economic crises or natural disasters. It also manages official export and development financing instruments.
2. Financial institutions

2.2.3. Savings banks

Savings banks are credit institutions with the same freedoms as and full operational equality with the other members of the Spanish financial system. They have the legal form of private foundations and a community-welfare purpose and operate in the open market, although they reinvest a considerable portion of their earnings in community outreach projects.2

These long-standing institutions with deep roots in Spain have traditionally attracted a substantial portion of private savings, with their lending business characteristically focused on the private sector (through mortgage loans, etc.). They have also been very active in financing major public works and private-sector projects by subscribing and purchasing fixed-income securities.

Currently, as a result of the savings bank restructuring process, a number of savings banks have emerged which, while retaining their status as credit institutions, have stopped engaging directly in their traditional financial activity, as their financial business has been transferred to banks formed for that purpose and owned by the savings banks via the creation of Institutional Protection Schemes (IPSs).

Of a total of 45 savings banks (at the beginning of 2010), 43 are involved or have been involved in a restructuring process, accounting for 99.9% of the industry by volume of assets. The consolidation comprises nine mergers, seven IPSs and two acquisitions. As part of the process, 14 instrumental banks have been created.3

The Spanish savings banks are members of the Spanish Confederation of Savings Banks (CECA), a credit institution formed in 1928 to act as the national association and financial institution of the Spanish savings banks. The “special foundations”, the central institutions of the IPSs, the instrumental banks through which the savings banks engage in their financial activity and the institutions whose financial business derives from a savings bank all form part of the CECA. The CECA aims to strengthen the position of the savings banks, it acts as a forum for strategic reflection for all savings banks and other member entities, it advises them and it provides them with competitive products and services.

2.2.4. Credit cooperatives

Credit cooperatives are credit institutions that combine the corporate form of a cooperative and the activity and status of a fully operational credit institution.

Their uniqueness and importance lies in the fact that they function as a nonprofit organization, since their members combine their funds to make loans to each other, with any excess revenues being returned to the members in the form of dividends.

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2 As a result of the credit institution restructuring process, almost all the savings banks have agreed to separate their financial activities from their community welfare activities, so that today the community welfare activities are carried out by foundations and the financial activities by credit institutions (typically banks) owned by the savings banks.

3 Source: CECA
2. Financial institutions

Their key features are described below:

<table>
<thead>
<tr>
<th>Table 4</th>
<th>MAIN FEATURES OF CREDIT COOPERATIVES</th>
</tr>
</thead>
</table>
• Autonomous communities: corporate / cooperative regulations. |
| **Corporate purpose** | • They may perform all types of lending and deposit-taking operations and provide all the services permitted to banks and savings banks, provided they give priority to the financial needs of their members.  
• Aggregate lending operations with third parties who are not members may not reach 50% of the total assets of the cooperative. |
| **Minimum capital** | • Each member must have a holding of at least €60.01 in the capital.  
• No legal entity may hold more than 20% of the capital, unless it is a cooperative, in which case the holding cannot exceed 50% of the capital.  
• No individual may hold more than 2.5% of the capital of a credit cooperative. |
| **Governning bodies** | • General Assembly: each member has one vote, regardless of the member’s shares in the capital stock. However, if the bylaws so provide, the vote of the members may be in proportion to their contribution to the capital, to the activity pursued, or to the number of members of associated cooperatives; in this case, the bylaws must clearly indicate the criteria for such proportional voting.  
• Governing Board comprising at least five members, two of whom may be non-members.  
• General Manager, without governing functions, subordinated to the Governing Board.  
• All members of the Governing Board must be persons of good business and professional repute and must have appropriate knowledge and experience to perform their duties.  
• Registration of managers, directors or similar executives on the Register of Senior Officers. |
| **Contributions** | • They are for an indefinite term.  
• Their remuneration is conditional on the existence of net income or sufficient unrestricted reserves to cover the remuneration.  
• Their redemption is subject to compliance with the solvency ratio. |
| **Formation of credit cooperatives** | • Formation of credit cooperatives must be authorized by the Bank of Spain. Registration on the appropriate registers, and management of those registers, will also lie with the Bank of Spain.  
• Must be registered on the Special Register of the Bank of Spain. |
Additional considerations regarding credit institutions:

A) The regime governing significant holdings and changes of control at credit institutions

Any individual or legal entity that, acting alone or in concert with others, intends to acquire, directly or indirectly, a significant holding in a Spanish credit institution or to increase, directly or indirectly, the holding in that institution so that either the percentage of voting rights or capital held is equal to or greater than 20, 30 or 50 percent, or that, by virtue of the acquisition could control the credit institution, must give prior notice to the Bank of Spain in order to secure a statement of non-opposition to the proposed acquisition, indicating the amount of the expected holding and including all the information required by law. Likewise, any individual or legal entity that has taken a decision to dispose, directly or indirectly, of a significant holding in a credit institution, must first notify the Bank of Spain of such circumstance.

Furthermore, any individuals or legal entities that, acting alone or in concert with others, have acquired, directly or indirectly, a holding in a credit institution, so that the percentage of voting rights or of capital that they hold is equal to or greater than 5%, must give immediate written notice of such circumstance to the Bank of Spain and the credit institution in question.

B) Cross-border activities of credit institutions

With regard to the cross-border activities of credit institutions, the following may be noted:

- A Spanish credit institution may operate abroad by opening a branch or under the freedom to provide services.

- Credit institutions authorized in another EU Member State may engage in Spain, either by opening a branch or under the freedom to provide services, in activities that benefit from mutual recognition within the European Community.

- Likewise, credit institutions not authorized in an EU Member State may provide services through a branch or under the freedom to provide services, but they will require prior authorization.

In all cases, the credit institutions must fulfill a number of statutory requirements.

Furthermore, credit institutions may operate in Spain through representative offices. However, representative offices may not perform credit operations, collect deposits, or engage in financial intermediation, nor may they provide any other kind of banking services. They are confined to engaging in merely information-related or commercial activities regarding banking, financial

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4 “Significant holding” means a holding in a Spanish credit institution that amounts, directly or indirectly, to at least 10 percent of the capital or voting rights of the institution. Where a holding makes it possible to exert a notable influence at the institution, it will also be considered a significant holding even if it does not amount to 10 percent.
or economic matters. However, they may promote the channeling of third-party funds, through credit institutions operating in Spain, to their credit institutions in their countries of origin, and serve as a medium to provide services without a permanent establishment (that is, under the freedom to provide services).

2.3. Financial auxiliaries

2.3.1. Credit financial establishments

Credit financial establishments (*establecimientos financieros de crédito*) are institutions specialized in certain activities (e.g. financial leasing, financing, mortgage loans, etc.) which cannot raise deposits from the general public.

Their key features are summarized below:

<table>
<thead>
<tr>
<th>Table 5</th>
<th>MAIN CHARACTERISTICS OF CREDIT FINANCIAL ESTABLISHMENTS</th>
</tr>
</thead>
</table>
| **Basic regulations** | • Law 3/1994, of April 14, 1994, adapting Spanish legislation on credit institutions to the Second Council Directive on Banking Coordination and introducing other modifications relating to the financial system, in the area of credit financial establishments.  
• Royal Decree 692/1996, of April 26, 1996, establishing the legal regime for credit financial establishments. |
| **Corporate purpose** | Their scope of operations is the pursuit of banking and para-banking activities:  
• Financial leasing with certain complementary activities.  
• Lending.  
• Factoring with or without recourse.  
• Issuing and administering credit cards.  
• Issuing guarantees and similar commitments.  
• The other payment services defined in article 1 of the Payment Services Law, subject to any restrictions that may be established by regulations.  
They may perform any accessory activities necessary for the better pursuit of their principal activity.  
They are prohibited from raising funds from the general public, for whatever purpose, in the form of deposits, loans, repurchase agreements or other similar transactions. |
| **Minimum capital** | • Minimum capital stock of €5,108,602.88. Must be fully subscribed and paid in. |
| **Managing body** | • The Board of Directors must have no fewer than three members.  
• All members, and those of the Board of Directors of the parent company if there is one, must be persons of good business and professional repute.  
• All of the members of the Board of Directors, and of the Board of Directors of the parent company if there is one, must have appropriate knowledge and experience.  
• Registration of managers, directors or similar executives on the Register of Senior Officers. |
### 2. Financial institutions

**Table 5 (cont.)**

**MAIN CHARACTERISTICS OF CREDIT FINANCIAL ESTABLISHMENTS**

<table>
<thead>
<tr>
<th>Shares</th>
<th>Formation of credit financial establishments</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Shares must be registered.</td>
<td>• Formation of credit financial establishments must be authorized by the Bank of Spain.</td>
</tr>
<tr>
<td>• Divided into number and class.</td>
<td>• Registration on the appropriate registers, and management of those registers, will also lie with the Bank of Spain.</td>
</tr>
<tr>
<td>• Possible restrictions on their transferability.</td>
<td>• Must be registered on the Special Register of the Bank of Spain.</td>
</tr>
<tr>
<td></td>
<td>• Must take the form of a corporation incorporated under the simultaneous foundation procedure for an indefinite term.</td>
</tr>
</tbody>
</table>

Royal Decree-Law 14/2013, of November 29, 2013, on urgent measures to adapt Spanish law to the EU legislation on supervision and solvency of financial institutions (hereinafter, “Royal Decree-Law 14/2013”) modified the legal regime for Credit Financial Establishments which, from January 1, 2014, and until a new regime is approved for them (envisaged in the Bill on Promoting Business Finance), lose their status as credit institutions.

However, Transitional Provision Two of Royal Decree-Law 14/2013 sets out a transitional regime under which Credit Financial Establishments will be subject to the legal regime applicable to them prior to the entry into force of Royal Decree-Law 14/2013 until specific legislation on Credit Financial Establishments is enacted, thereby allowing them to retain their status as credit institutions.

As of December 30, 2014, 47 Credit Financial Institutions had registered on the Bank of Spain’s Administrative Register.

#### 2.3.2. Payment Institutions

Introduced by Payment Services Law 16/2009, payment institutions are those legal entities, other than credit institutions and electronic money institutions, which have been granted authorization to lend and execute payment services, that is, services that permit effective deposits in a payment account, and those enabling cash withdrawals, the execution of payment transactions, and the issuance and acquisition of payment instruments and money remittances. Payment institutions are not authorized to collect deposits from the general public or to issue electronic money. In this regard, it should be noted Ministerial Order EHA 1608/2010, of June 14, 2010, on transparency of conditions and reporting requirements applicable to payment services, and Royal Decree 712/2010, of May 28, 2010, on the legal regime for payment services and payment institutions, which supplement the above-mentioned Law 16/2009.

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5 Payment institutions have their origin in currency-exchange bureaux.
2. Financial institutions

As of December 30, 2014, there are officially registered at the Bank of Spain 45 payment institutions, 8 branches of non-Spanish EU payment institutions, 262 non-Spanish EU payment institutions operating in Spain without an establishment and 3 networks of agents of EU payment institutions.

2.3.3. Electronic Money Institutions

Electronic money institutions (introduced by Law 44/2002 on Measures for the Reform of the Financial System or Financial Law) are credit institutions specialized in issuing electronic money, that is, monetary value represented by a claim on its issuer: a) stored on an electronic device; b) issued on receipt of funds of an amount not less in value than the monetary value issued; and c) accepted as a means of payment by undertakings other than the issuer. As a consequence of the development of the sector, which made it advisable to amend the regulatory framework of the electronic money institutions and of the issuance of electronic money, the Electronic Money Law 21/2011, of July 26, 2011 has been approved and implemented by Royal Decree 778/2012, of May 4, 2012, on the legal regime for electronic money institutions. The aim of this law is threefold: (i) to make regulation of the issuance of electronic money more specific, clarifying the definition of electronic money and the scope of application of the law; (ii) to remove certain requirements that are deemed inappropriate for electronic money institutions; and (iii) to guarantee consistency between the new legal regime for payment institutions, described above, and electronic money institutions. In this regard, electronic money institutions are also authorized to provide all the payment services typical of payment institutions.

As of December 30, 2014, there are 4 electronic money institutions officially registered at the Bank of Spain.

2.3.4. Mutual Guarantee and Counter-Guarantee Societies

These societies were first introduced in 1978 and since then have operated in the area of medium- and long-term financing of small and medium-sized enterprises, to which they provide guarantees, mainly, through endorsements. As of December 30, 2014, there were a total 24 mutual guarantee societies registered at the Bank of Spain.

Their corporate purpose is as follows:

• To provide their members with access to credit and to credit-related services.

• To improve the financial conditions of their members.

• To provide personal guarantees in any lawful form, other than in the form of an insurance surety.

• To provide financial advice and assistance to their members.

• To take holdings in companies and associations whose sole purpose is to engage in activities for small and medium-sized companies. To this end, they must have the required reserves and obligatory provisions.
Members of mutual guarantee societies can be of two types: (i) participating members and (ii) protector members.

Counter-guarantee societies, which are financial institutions for the purposes of Law 1/1994, with the legal form of corporations, and which necessarily have an ownership interest held by the State, coexist with these mutual guarantee societies. Their purpose is to provide sufficient coverage and assurance for the risks assumed by the mutual guarantee societies, also furnishing the cost of the guarantee for the members.

2.3.5. Valuation companies

These companies are authorized to perform appraisals of real estate for certain types of financial institutions, in particular those related to the mortgage market.

Officially approved valuation companies are registered and supervised by the Bank of Spain. Their administrative rules, which aim to enhance the quality and transparency of appraisals, are established in Royal Decree 775/1997.

As of December 30, 2014, there are 405 valuation companies officially registered at the Bank of Spain.

2.4. Collective Investment Schemes

2.4.1. Features

Collective investment schemes (Instituciones de Inversión Colectiva, or IICs) are vehicles designed to raise funds, assets or rights from the general public to manage them and invest them in assets, rights, securities or other instruments, financial or otherwise, provided that the investor’s return is established according to the collective results.

The favorable tax treatment enjoyed by collective investment schemes in Spain has led to a considerable increase both in the number of these vehicles and the volume of their investments.

According to INVERCO, the Spanish Association of Collective Investment Schemes and Pension Funds, Spanish households’ financial savings declined from slightly over €211 billion in 1985 to €169 billion in 2008. According to Bank of Spain figures, at the end of June 2014, Spanish households’ financial savings (financial assets) totaled 1,950,000 million, representing an increase of 3.3% in the second quarter of the year and of 5.6% for the first half of 2014 (€102,376 million). Net financial savings of Spanish households (assets-liabilities) reached a historic high for the third consecutive quarter, amounting to €1.11 billion, up 11.6% in the period from January to June 2014).

Moreover, again based on data provided by INVERCO, in 1985 most financial savings (64.9%) took the form of cash and deposits at credit institutions, while collective investment accounted for only 0.4%. In the second quarter of 2014 these figures stood at 44.3% and 8.5%, respectively.
2. Financial institutions

With respect to financial flows in the first half of 2014, half of new investments by Spanish households in the first half of 2014 (€31,623 million) were channeled through investment funds.


Spanish collective investment schemes may be of two types:

- Financial: Their primary activity is to invest in or manage transferable securities. These include investment companies and securities funds, money market funds and other institutions whose corporate purpose is to invest in or manage financial assets.

- Non-financial: They deal mainly in real asset assets for operation purposes and include real estate investment companies and funds. Of note in this regard is the creation of Listed Corporations for Investment in the Real Estate Market (Sociedades Anónimas Cotizadas de Inversión en el Mercado Inmobiliario, SOCIMIs) whose main activity is to acquire and develop urban real estate for lease activities.

As for the legal form that the various schemes may take, the legislation envisages two alternatives:

- Investment Companies: These are collective investment schemes that take the form of a corporation (and therefore have legal personality) and whose corporate purpose is to raise funds, assets or rights from the general public to manage them and invest them in assets, rights, securities or other instruments, financial or otherwise, provided that the investor’s return is established according to the collective results. The management of an Investment Company is entrusted to its board of directors, although the management of the company’s assets may be delegated to one or more Management Companies of Collective Investment Schemes (Sociedades Gestoras de Instituciones de Inversión Colectiva, or SGIIC) or to one or more institutions authorized to provide in Spain the investment service envisaged in article 61.1.(d) of Securities Market Law 24/1988 (Securities Market Law). The number of shareholders may not be less than 100. In the case of multiple compartment SICAVs, the number of shareholders may not be less than 20, and the total number of shareholders of the SICAV may not be less than 100 under any circumstances.

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2. Financial institutions

Financial Investment Companies will be formed as open-ended investment companies (*Sociedades de Inversión de Capital Variable*, or SICAV) with variable capital, that is, capital that may be increased or reduced within the maximum or minimum capital limits set in their bylaws by means of the sale or acquisition by the company of its own shares. Shares will be issued and bought back by the company at the request of any interested party according to the corresponding net asset value on the date of the request. The acquisition of own shares by the SICAV, in an amount between the initial capital and the limit per the bylaws, will not be subject to the restrictions established for the derivative acquisition of own shares in the Capital Companies Law. Since they are listed companies, SICAV shares must be represented by book entries (the unofficial market habitually used for trading the shares of SICAVs is the Alternative Stock Market (*Mercado Alternativo Bursátil*, MAB). Non-financial Investment Companies will be closed-end companies, i.e. they will have a fixed capital structure.

It is obligatory for SICAVs to have a depositary.

- Investment Funds: These are pools of assets with no legal personality divided into a number of transferable units (with no par value) with identical properties belonging to a group of investors (“unit-holders”) who may not be fewer than 100. In the case of multiple compartment investment funds, the number of unit-holders may not be less than 20 and the total number of unit-holders of the investment fund may not be less than 100 under any circumstances. The subscription or redemption of the units depends on their supply or demand, so their value (“net asset value”) is calculated by dividing the value of the assets of the fund by the number of units outstanding. Payment on redemption will be made by the depositary within a maximum of three business days from the date of the net asset value applicable to the company.

A fund is managed by Management Company of Collective Investment Schemes that has the power to dispose of the assets, although it is not the owner of the assets. A Depositary is the company responsible for the liquidity of the securities and, as the case may be, for their safekeeping. Both companies are remunerated for their services through fees.

Listed investment funds are those whose units are admitted to trading on a stock exchange, for which purpose they must meet a number of requirements.

A distinction may also be drawn between collective investment schemes according to whether they are subject to Spanish or European legislation:

- Spanish Collective Investment Scheme (IIC) legislation:

  Spanish IICs are investment companies with registered office in Spain and investment funds formed in Spain. They are subject to Spanish IIC legislation, which reserves the corresponding activity and name for them.

  Foreign IICs are any IICs other than those mentioned in the preceding paragraph. If they wish to be traded in Spain, they must meet certain requirements established in the applicable legislation.
2. Financial institutions

- **European Collective Investment Scheme (IIC) legislation:**

  Harmonized IICs are IICs authorized in an EU Member State in accordance with the UCITS legislation.

  Non-harmonized IICs are IICs domiciled in an EU Member State that do not meet the requirements established in the UCITS legislation and IICs domiciled in non-EU Member States. In addition, Collective Investment Schemes of Free Investment, commonly known in the market as Hedge Funds\(^7\), are in any case considered as non-harmonized IICs. Collective Investment Schemes of Free Investment may invest in financial assets and instruments and in derivatives, regardless of the nature of the underlying assets. Such investments must respect the general principles of liquidity, risk diversification and transparency, but are not subject to the rest of the investment rules established for IICs.

The Spanish National Securities Market Commission (CNMV) is the body in charge of supervising IICs. In this respect, both investment companies and investment funds require prior authorization from the CNMV for their formation. After their formation and registration at the Commercial Registry (the registration requirement is not obligatory for investment funds), the CNMV registers the IIC and its prospectus on its register.

The asset and capital requirements of the main types of IICs include the following:

- Financial investment funds will have minimum assets of €3,000,000. In the case of multiple compartment funds, each compartment must have at least €600,000 in assets and the total minimum capital paid in may not be less than 3,000,000 under any circumstances.

- The minimum capital of Open-End Investment Companies (SICAVs) will be €2,400,000, which must be fully subscribed and paid in. In the case of multiple compartment SICAVs, each compartment must have minimum capital of €480,000 and the total minimum capital paid in may not be less than 2,400,000 under any circumstances.

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2. Financial institutions

- The minimum capital stock of real estate investment companies will be €9,000,000. In the case of multiple compartment companies, each compartment must have capital of at least €2,400,000 and the total capital of the company may not be less than 9,000,000 under any circumstances.

A brief comment should also be made regarding the trading\(^8\) of foreign IICs in Spain which, subject to fulfillment of the formalities and requirements established in the legislation, requires that a distinction be drawn between:

- Harmonized IICs, which may trade in Spain unrestricted once the competent authority in the home Member State informs them that it has sent the CNMV a notification with the relevant information.

- Non-harmonized IICs and IICs authorized in a non-EU Member State, which require express authorization from the CNMV and registration on its registers.

2.4.2. Management Companies of Collective Investment Schemes

The key features of Management Companies of Collective Investment Vehicles (SGIICs) are as follows:

- They are corporations whose corporate purpose is to administer, represent, manage investments and manage subscriptions and redemptions of investment funds and investment companies. In addition, they may market the units or shares of IICs.

- Moreover, SGIICs may be authorized to engage in the following activities:
  a) Discretionary and individualized investment portfolio management.
  b) Administration, representation, management and marketing of venture capital entities, closed-ended collective investment entities, European venture capital funds (EVCF) and European social entrepreneurship funds (ESEF).
  c) Investment advice.
  d) Safe-keeping and management of units of investment funds and, as the case may be, of shares of investment companies, EVCFs and ESEFs.
  e) Receipt and transfer of customer orders relating to one or more financial instruments.

- It falls of the CNMV, to grant prior authorization for the formation of an SGIIC, which must be registered at the Commercial Registry and on the appropriate CNMV register.

\(^8\) Subject to the requirements laid down in Directive 2011/61/EU.
2. Financial institutions

- SGIICs must, at all times, have equity⁹ that may not be less than the larger of the following amounts:
  
a) Minimum capital stock of €300,000 fully paid in and increased by certain proportions established in the IIC regulations according to certain circumstances.

b) 25% of the overheads charged in the income statement for the prior year. Overheads will comprise personnel expenses, general expenses, levies and taxes, amortization/depreciation charges and other operating charges.

- The current legislation introduces the necessary provisions to ensure the correct functioning of the cross-border fund management company passport, enabling Spanish SGIICs to manage funds domiciled in other EU Member States and SGIICs from other Member States to manage Spanish funds.

- In addition, regarding cross-border activities of SGIICs, the following may be noted:
  
a) SGIICs authorized in Spain may engage in the activity to which the foreign authorization refers, either through a branch or under the freedom to provide services, after fulfilling all formalities and requirements established by law.

b) Foreign SGIICs may engage in their activities in Spain either by opening a branch or under the freedom to provide services, provided that they satisfy the relevant statutory formalities and requirements.

- Any individual or legal entity that, alone or acting in concert with others, intends to, directly or indirectly, acquire a significant holding¹⁰ in a Spanish SGIIC or to, directly or indirectly, increase their holding in that SGIIC so that either the percentage of voting rights or of capital they hold is equal to or greater than 20, 30 or 50 percent, or by virtue of the acquisition they could come to control the SGIIC, they must first notify the CNMV in order to secure a statement of non-opposition to the proposed acquisition, indicating the amount of the expected holding and including all the information required by law. Acquiring or increasing significant holdings in breach of the law constitutes a very serious infringement. In addition, any individual or legal entity that, directly or indirectly, intends to dispose of a significant holding in an SGIIC, to reduce

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⁹ SGIICs may be exempt from compliance with some of the obligations of the Law, as provided for in the regulations, where they meet the following requirements: they only manage investment firms and the managed assets are less than a) €100 million, including assets acquired by using leverage; or b) €500 million where the investment firms they manage are not leveraged and have no right of reimbursement that may be exercised during a period of five years after the date of initial investment.

¹⁰ Where “significant holding” means a holding in a Spanish credit institution that amounts, directly or indirectly, to at least 10 percent of the capital or voting rights of the institution. Where a holding makes it possible to exert a notable influence at the institution, it will also be considered a significant holding even if it does not amount to 10 percent.
2. Financial institutions

their holding so that it falls below the thresholds of 20, 30 or 50 percent, or that, as a result of the proposed disposal, may lose control of the credit institution, must give prior notice to the CNMV.

Likewise, any individual or legal entity that, alone or acting in concert with others, has acquired, directly or indirectly, a holding in a management company, so that the percentage of voting rights or of capital that they hold is equal to or greater than 5 percent, must give immediate written notice to the CNMV and the SGIIC in question, indicating the amount of the resulting holding.

2.5. Investment Firms

2.5.1. Features

Investment Firms are companies whose main activity is to provide professional investment services to third parties on financial instruments subject to securities market legislation.

Under Spanish law, investment firms provide the following investment and ancillary services:

Table 6

<table>
<thead>
<tr>
<th>INVESTMENT SERVICES AND ANCILLARY SERVICES</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Reception and transmission of client orders relating to one or more financial instruments.</td>
</tr>
<tr>
<td>b) Execution of those orders on behalf of clients.</td>
</tr>
<tr>
<td>c) Dealing on own account.</td>
</tr>
<tr>
<td>d) Discretionary and individualized investment portfolio management in accordance with client mandates.</td>
</tr>
<tr>
<td>e) Placement of financial instruments, whether on or not on a firm commitment basis.</td>
</tr>
<tr>
<td>f) Underwriting of an issue or a placement of financial instruments.</td>
</tr>
<tr>
<td>g) Provision of investment advice.</td>
</tr>
<tr>
<td>h) Management of multilateral trading systems.</td>
</tr>
</tbody>
</table>
TABLE 6 (cont.)

INVESTMENT SERVICES AND ANCILLARY SERVICES

<table>
<thead>
<tr>
<th>Ancillary services</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Safekeeping and administration of financial instruments for the account of clients.</td>
<td></td>
</tr>
<tr>
<td>b) Granting credits or loans to investors to allow them to carry out a transaction in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction.</td>
<td></td>
</tr>
<tr>
<td>c) Advising companies on capital structure, industrial strategy and related matters, and providing advice and services relating to mergers and acquisitions.</td>
<td></td>
</tr>
<tr>
<td>d) Services related to operations for the underwriting of issues or placing of financial instruments.</td>
<td></td>
</tr>
<tr>
<td>e) Preparation of investment and financial analysis reports or other forms of general recommendations relating to transactions in financial instruments.</td>
<td></td>
</tr>
<tr>
<td>f) Foreign exchange services where these are related to the provision of investment services.</td>
<td></td>
</tr>
<tr>
<td>g) Investment services and ancillary services related to the non-financial underlying of certain financial derivatives when these are related to the provision of investment services or to ancillary services.</td>
<td></td>
</tr>
</tbody>
</table>

No person or entity may professionally provide the investment services or ancillary services listed in letters a), b), d) f), and g) above in relation to financial instruments unless they have been granted the mandatory authorization and are registered on the appropriate administrative registers. In addition, only the institutions authorized for that purpose may market investment services or solicit clients professionally, either directly or through regulated agents.

The legal regime for Investment Firms is contained in the Securities Market Law and in Royal Decree 217/2008. These pieces of legislation transpose into Spanish law the EU MiFID legislation.¹¹

There are four types of Investment Firms:

- Broker-dealers (sociedades de valores): These are investment firms that can operate both for their own and for the account of others, and that provide the full range of investment and ancillary services. Their capital stock must be at least €2,000,000.

¹¹ It should be noted that in 2014, Directive 2014/65/EU of the European Parliament and of the Council, of 15 May 2014, on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (MiFID II), which repeals Directive 2004/39/EC of the European Parliament and of the Council, of 21 April 2004, on markets in financial instruments (MiFID I) and a new Implementing Regulation (MiFIR), which replaces the former legislation 648/2012, were approved. However, to date, MiFID II has not yet been transposed into Spanish legislation.
2. Financial institutions

As of December 31, 2014, there were 40 broker-dealers registered on the CNMV’s Administrative Register.

• Brokers (agencias de valores): Investment firms that can only operate professionally for the account of others, with or without representation, and that provide the full range of investment services except for those described in letters c) and f) above, and the full range of ancillary services except for those mentioned in letter b).

Their capital stock will depend on the activities they pursue, as follows:

a) Where they intend to become members of secondary markets, or to join securities clearing and settlement systems, or they include the safekeeping of financial instruments in their business program and they may maintain credit positions of an incidental or provisional nature, their minimum capital stock will be €500,000.

b) Securities Dealers that do not intend to become members of secondary markets, or join securities clearing and settlement systems, when they do not include the safekeeping of financial instruments or the receipt of funds from the public in their business program, so that they may in no event be in a debit position with their clients, will have a minimum capital stock of €300,000.

c) When they are only authorized to receive and transfer orders without holding funds or financial instruments that belong to their clients, they must have an initial capital of €120,000.

As of December 31, 2014, there were 37 brokers registered on the CNMV’s Administrative Register.

• Portfolio management companies (sociedades gestoras de carteras): These investment firms can only provide the investment services described in letters d) and g) and the ancillary services described in letters c) and e). They must have capital stock of at least €100,000.

As of December 31, 2014, there were 5 portfolio management companies registered on the CNMV’s Administrative Register.

• Financial advisory firms (empresas de asesoramiento financiero): These are individuals or legal entities that can only provide the investment services listed in letter g) and the ancillary services indicated in letters c) and e). In the case of legal entities, they must have (i) initial capital of €50,000, or (ii) a civil liability insurance policy that covers the entire territory of the European Union, a guarantee or other comparable guarantee, with a minimum coverage of €1,000,000 for claims for damages, and a total of €1,500,000 per year for all claims, or (iii) a combination of initial capital and a professional civil liability insurance policy that gives rise to coverage equivalent to that described in points (i) and (ii) above.

As of December 31, 2014, there were 143 financial advisory firms registered on the CNMV’s Administrative Register.
2. Financial institutions

In addition, credit institutions may provide on a regular basis the full range of investment and ancillary services where their legal regime, their bylaws and their specific authorization enables them to do so. Likewise, collective investment scheme management companies (SGIICs) may provide certain investment and ancillary services provided that they are authorized to do so.

The conditions for taking up business can be summarized as follows:

- **Internal organization**: The Securities Market Law and Royal Decree 217/2008 are very exhaustive on the internal organization requirements that investment firms must meet.

- **Authorization and registration**: It falls to the CNMV to authorize investment firms.

In order to secure authorization as an investment firm, the following broad requirements must be met:

- Its sole corporate purpose must be to engage in the specific activities of investment firms.

- It must take the form of a corporation, incorporated for an indefinite term, and the shares comprising its capital stock must be registered shares.

- The minimum capital stock must be fully paid in in cash.

- It must have a board of directors made up of no fewer than three members.

- All the directors or, where appropriate, the members of its board of directors, including individuals representing legal entities on the boards and on those of its parent company, if any, and those holding management positions at the firm, or at the parent company, if any, must be persons of good business and professional repute.

- The majority of the directors or, as the case may be, members of its board of directors and, in any case, three of them, as well as all persons holding management positions, must have appropriate knowledge and experience of securities market-related matters.

- It must have an internal code of conduct.

- It must join the Investment Guarantee Fund where so required.

- It must have presented a business plan reasonably evidencing that the investment firm’s project is viable in the future.

- It must have submitted appropriate documentation on the conditions and the services, functions or activities to be subcontracted or outsourced, to permit verification that this fact does not invalidate the requested authorization.
2. Financial institutions

2.5.2. The regime governing significant holdings and changes of control at investment firms

Pursuant to the regime governing significant holdings for investment firms, they must notify the CNMV, for its preliminary assessment, of any acquisitions amounting to more than 10% of capital or of voting rights, and of any significant holding that is increased so that the percentage of capital or voting rights becomes equal to or greater than 20%, 30% or 50%, or control of the firm is acquired. In addition, any individual or legal entity that has decided to dispose, directly or indirectly, of a significant holding in an investment firm, must first notify the CNMV of such circumstance.

Also, any individual or legal entity that, alone or acting in concert with others, has acquired, directly or indirectly, a holding in a Spanish investment firm, so that the percentage of voting rights or of capital that they hold is equal to or greater than 5%, must give immediate written notice to the CNMV and to the investment firm in question, indicating the amount of the resulting holding.

2.5.3. Cross-border activities of investment firms

a) Spanish investment firms may provide, in other EU Member States, the investment services and ancillary services for which they are authorized, either through a branch or under the freedom to provide services, subject to the fulfillment of the established legal formalities.

b) Investment firms authorized in another EU Member State may provide investment and ancillary services in Spain, either by opening a branch or under the freedom to provide services, subject to the statutory notification procedure.

c) Non-EU investment firms intending to open a branch in Spain or to operate under the freedom to provide services are subject to the authorization procedure.

2.6. Closed-ended type Collective Investment Entities

2.6.1. Features


The term “closed-ended type investment” is defined as that performed by venture capital entities and other collective investment entities at which, in accordance with their divestment policies, (i) all divestments by their members or unit-holders must take place at the same time, and (ii) the sums received in respect of divestment must be received according to the amount due to each member or unit-holder by reference to the rights they hold under the terms established in the bylaws or regulations.
2. Financial institutions

Closed-ended type collective investment must be carried out in Spain by two types of entities:

a) “Venture capital entities” or “ECR” (Entidades de Capital Riesgo with a similar definition to that provided in Law 25/2005), which can take the form of funds (“FCR” – Fondos de Capital Riesgo) or companies (“SCR” – Sociedades de Capital Riesgo); and

b) Other types of entities which the Law 22/2014 calls “closed-ended type collective investment entities” (“EICC” – Entidades de Inversión Colectiva de Tipo Cerrado), a new vehicle created by the Law 22/2014 which are defined as collective investment entities which, without having any commercial or industrial purpose, obtain capital from a number of investors, through marketing activities, to invest it in all types of assets, financial or otherwise, subject to a predefined investment policy. Closed-ended type investment entities can be either funds (“FICC”) or companies (“SICC”). This new type of entity will include any companies that might have been operating in Spain by investing in non-listed securities but failed to meet the requirements under the regime for investments and diversification of venture capital.

Both types of entities must be managed by an authorized management company in accordance with the Law 22/2014. The basic difference between venture capital entities (ECRs) and closed-ended type collective investment entities (EICCs) is that venture capital entities have a smaller investment scope than closed-ended type collective investment entities. Mirroring the requirement in the now repealed Law 25/2005, venture capital entities have to restrict their investment activities to acquiring temporary interests in the capital of enterprises other than real estate or financial enterprises which, when the interest is acquired are not listed on a primary stock market or on any other equivalent regulated market in the European Union or of the in any other OECD member participants, whereas, as mentioned above, closed-ended type collective investment entities can invest in “all types of assets, financial or otherwise”.

Law 22/2014 also regulates three new types of entities:

a) European venture capital funds (“EVCF”), subject to the rules in Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013, on European venture funds. They must be registered in the register set up for them at the CNMV; and

b) European social entrepreneurship funds (“ESEF”), subject to the rules contained in Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds. They must be entered in the register set up for them at the CNMV.

c) It creates a special type of SME venture capital entity, an “ECR-Pyme”, taking the form of either SME venture capital companies (SCR-Pyme) and SME venture capital funds (FCR-Pyme) (art. 20 Law 22/2014). These must hold, at least, 75% of their computable assets in certain financial instruments providing funding to small and medium-sized enterprises meeting a number of requirements at the time of the investment.
2. Financial institutions

Therefore, Law 22/2014 regulates the legal regime of such entities as well as marketing regime of their shares or units in Spain and abroad.

2.6.2. Management companies of Closed-ended type Collective Investment Entities

Collective investment entity management companies are Spanish corporations (Sociedades Anónimas) whose corporate purpose is to manage the investments of one or more venture capital entities and/or closed-ended type collective investment entities, and monitor and manage their risks. Each venture capital entity and closed-ended type collective investment entity will have only one manager which must be a collective investment entity management company. Venture capital companies and closed-ended type collective investment companies can act as their own management company (“self-managed companies”).

A description has been provided of the activities that can be carried on by collective investment entity management companies (there are some specific provisions in relation to self-managed companies and certain restrictions have been imposed), and a distinction is drawn between:

a) Primary activity: investment portfolio management and risk monitoring and management with respect to the entities they manage (venture capital entity, closed-ended type collective investment entities, European venture capital funds or European social entrepreneurship funds).

b) Additional activities: administrative and marketing tasks and activities related to the entity’s assets.

c) Ancillary services: discretionary investment portfolio management, advisory services on investment, safe-keeping and administration of the units and shares of venture capital entities and closed-ended type collective investment entities (and, if applicable, European venture capital funds and European social entrepreneurship funds) and receipt and transmission of orders of customers in relation to one or more financial instruments.

A strict regime for obtaining the CNMV’s authorization is established. Additionally, the CNMV must be notified of any significant change to the circumstances in which the original authorization was granted.

2.7. Insurance and reinsurance companies and insurance intermediaries

In light of the security it provides to individuals and traders and the positive role it plays in encouraging and channeling savings into productive investments, the insurance industry is subject to comprehensive legal regulations and tight administrative control. In this regard, insurers are required to invest part of the premiums they receive in qualifying assets that ensure security, profitability and liquidity.

The industry is supervised by the Directorate-General of Insurance and Pension Funds (DGS), attached to the Ministry of Economy and Competiveness, and the basic legal regime for insurance in Spain is as follows:
2. Financial institutions

- **Insurance firms:**
  
a) The legislation on insurance firms is contained in Legislative Royal Decree 6/2004, of October 29, 2004, approving the Revised Private Insurance (Regulation and Supervision) Law and its implementing regulations. A new regulation is currently being reviewed in Spain, which is intended to implement the new supervision regime established on the Directive Solvency II, aiming to come into force in 2016, date in which the aforementioned directive will come into force.


- An insurer is a company that engages in the business of performing insurance, reinsurance or capital redemption transactions. This is an exclusive and excluding business, that is, insurance contracts can only be formalized by insurers that are duly authorized by the Ministry of Economy and Competitiveness and registered on the register of the DGS, and insurers cannot perform transactions other than those defined in the above-mentioned insurance legislation. In this respect, the applicable legislation has established a specific authorization procedure for entities wishing to engage in these activities.

Insurance entities are permitted to adopt the form of a corporation (*sociedad anónima*), a mutual insurance company (*mutua*), a cooperative (*cooperativa*) or a welfare mutual insurance company (*mutualidad de prevision social*), and specialized reinsurers are also in a class of their own, determined by their corporate purpose. Prior administrative authorization is required to operate in each line of insurance, which authorization implies registration on the register of insurance entities of the DGS. Foreign insurers are permitted to operate in Spain through a branch or under the freedom to provide services, in case that the insurers are domiciled in other countries of the European Economic Area and through a branch domiciled in third countries.

The Spanish insurance industry continues to be characterized by the co-existence of a certain degree of concentration of the business volume in highly-competitive lines and types of insurance (life, health, motor, multi-risk insurance) which require considerable size in terms of assets and administration, with the dispersion of a minimum part of that business volume among a large number of entities operating in other types of insurance which do not require such size.

Reinsurance entities are entities that undertake to reimburse insurers for the obligations they may hold vis-à-vis third parties under arranged insurance contracts, and which are covered by reinsurance. Reinsurance contracts can be written by reinsurance companies whose sole corporate purpose is to arrange reinsurance, insurance entities themselves with respect to classes of insurance for which they are authorized and, lastly, foreign reinsurance entities which are domiciled in another country from the Economic European Area (under the freedom to provide services or through branches in Spain) and in third countries, that may or may not have a branch in Spain.
2. Financial institutions

The following table shows the changes in the numbers of operating Spanish insurance and reinsurance entities. The figures are broken down between direct insurance entities and pure reinsurance entities and, within the former category, by the various legal forms they take. There are currently no insurance cooperatives on the register.

<table>
<thead>
<tr>
<th>Table 7</th>
<th>EVOLUTION OF SPANISH INSURANCE COMPANIES OPERATING</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>2009</td>
</tr>
<tr>
<td>DIRECT INSURANCE ENTITIES</td>
<td></td>
</tr>
<tr>
<td>– Corporations</td>
<td>204</td>
</tr>
<tr>
<td>– Mutual insurance societies</td>
<td>35</td>
</tr>
<tr>
<td>– Welfare mutual insurance societies</td>
<td>55</td>
</tr>
<tr>
<td>TOTAL DIRECT INSURANCE ENTITIES</td>
<td>294</td>
</tr>
<tr>
<td>SPECIALIZED REINSURERS</td>
<td>2</td>
</tr>
<tr>
<td>TOTAL INSURANCE AND REINSURANCE ENTITIES</td>
<td>296</td>
</tr>
</tbody>
</table>

Insurance intermediaries are individuals or legal entities that, being duly registered on the special administrative register of insurance intermediaries and brokers and their senior officers, pursue the mediation between insurance or reinsurance policyholders, on the one hand, and private insurance or reinsurance entities, on the other. The following are mediation activities:

a) Introducing, proposing or carrying out work preparatory to the conclusion of insurance or reinsurance contracts.

b) Concluding insurance and reinsurance contracts.

c) Assisting in the administration and performance of such contracts, in particular in the event of a claim.

Intermediaries are classified as follows:

- Insurance agents: individuals or legal entities that conclude an agency agreement with an insurance entity. Insurance agents may be:

  a) Exclusive insurance agents: they carry on the activity of insurance mediation for one insurance entity on an exclusive basis, unless the insurance entity authorizes the agent to operate exclusively with a different insurance entity in certain lines of insurance in which it does not operate.
2. Financial institutions

b) Tied insurance agents: they carry on the activity of insurance mediation for one or more insurance entities.

c) Bancassurance operators: these are credit institutions and companies owned or controlled by them that carry on the activity of insurance mediation through an insurance agency contract for one or more insurance entities using the credit institutions’ distribution networks. The bancassurance operators may be exclusive or non-exclusive.

- Insurance brokers: individuals or legal entities that carry on the commercial activity of private insurance mediation without any contractual ties to insurance entities and that offer independent, professional and impartial advice to the client.

- Reinsurance brokers: individuals or legal entities that carry on the activity of mediation in relation to reinsurance transactions.

The acquisition of holdings amounting to 10% of the share capital or of the voting rights or of each increase that meets or exceeds the 20%, 30% or 50% limit, or when in virtue of the acquisition it may result in taking control of an insurance entity or of an insurance brokerage must be previously not objected by the DGS. Where a holding makes it possible to exert a notable influence on the management of the insurance entity or of the insurance brokerage, it will also be considered a significant holding even if it does not amount to 10 percent.

2.8. Pension plans and funds

2.8.1. Features

The insufficiency of the Spanish social security system, and the threat of a potential crisis in the system, prompted the sentiment that social security benefits, especially retirement benefits, would have to be supplemented. Thus saving and funded pension plans emerged to ensure an adequate pension upon retirement. In 1987 the Pension Plan and Fund Law introduced in Spain a savings arrangement that has given rise to a solid long-term financing instrument, namely pension plans sponsored by employers, certain associations and financial institutions.

The savings are invested in a pension fund and are returned, capitalized, upon retirement, death, death of a spouse, orphanhood, permanent and absolute inability to work in the regular occupation or permanent and absolute inability to work, and complete disability or severe or complete dependency of the participant. This system is of great social import, since it ensures future income for the participant or beneficiary. Moreover, pension funds have high investment potential as they have to invest the funds they receive, which gives them great financial power.

The current legislation on pension plans and funds is contained in the Revised Pension Plan and Fund Law, approved by Legislative Royal Decree 1/2002, and in Royal Decree 304/2004 approving the Pension Plan and Fund Regulations.

A pension plan is a contract that regulates the obligations and rights of the parties to it (participants, sponsors and beneficiaries) with the aim of determining the benefits that the participant or the beneficiary
is entitled to, the conditions of that entitlement and the manner in which the plan is financed. These plans are based on contributions of savings which, duly capitalized, ensure future pensions.

The various characteristics of pension plans include, most notably, their favorable tax treatment and the restrictions on being able to draw out any of the accumulated savings prior to the occurrence of the contingency covered, except in cases of long-term unemployment or serious illness. Furthermore, the individual and associated pension plan participants may be able to draw out the savings related to contributions made at least 10 years ago.

Pension plans, regardless of their type, must necessarily be included in a pension fund, which are asset pools without separate legal personality created for the sole purpose of complying with pension plans, and are the investment instrument for the savings. All financial contributions from the sponsors and from the plan participants must be immediately and necessarily included in the position account of the plan in the pension fund, out of which any benefits arising under the plan will be paid.

A pension fund is administered by a management company, which keeps its accounting records, selects its investments and orders the depositary to purchase and sell assets. The following may be management companies:

- Corporations formed for this sole purpose. They require prior administrative authorization.
- Life insurance companies. They require prior administrative authorization.

Prior authorization from the Ministry of Economy and Competitiveness and registration at the appropriate Commercial Registry is required to set up a pension fund. In this respect, the applicable legislation has established a specific authorization procedure for entities wishing to engage in these activities.

2.8.2. Developments

At the end of 2013, the number of pension plans appearing in the Official Register of the Directorate-General of Insurance and Pension Funds totaled 3,075, compared with 3,170 the year before\(^{12}\), which represents a decrease of 3 percent.

The financial crisis caused, during 2013, a decrease in all the types of pension plans, hence, the associated pension plans suffered a decrease of 5.21%, the employment pension plans of 4.45% and the individual pension plans of 1.27%. Furthermore, the number of participants’ accounts slightly decreased in 2013 compared with the previous year (2.44%, from 10.419 to 10.165 million people). At year-end, the accumulated number of participants’ accounts reached the figure of 10.165.117 accounts. Bear in mind that the reference is to the number of participants’ accounts and not of participants, given the fact that a same person may be participant to several pension plans with the objective of diversifying their investments. The 78.28% of the total amount of participant accounts

\(^{12}\) The differences between the information given in previous and the present year are because of the constant revisions and actualizations of the data found in the registries of the Directorate-General of Insurance and Pension Funds.
correspond to participant accounts of individual plans, the 21.05% to participants of employment plans, and the 0.67% to participants of associated plans.

The latest numbers corresponding to December 2013, show very satisfactory yields, mainly due to the good behavior of the financial markets during the last part of the year, and remarkably the Mixed Equity/Bond and Equity Plans, which had an annual return of 21.82% and 10.13% respectively. Regarding the aggregate of the Plans, the weighted average profitability stood at 8.15%, being situated in 7.61% the average profitability of the employment plans, and in 8.45% the individual system plans, obtaining higher profits than in previous fiscal years.

In 2013, the total amount of contributions made have continued decreasing, even though this tendency seems to be improving with respect to the previous years: in 2011 the decrease was of 9.6% with respect to the previous year, in 2012 it was of 15.22% whilst in 2013 the decrease was only of 1.03%. In particular, the increase in the contributions in the individual plans of 5% with respect to the previous year is noteworthy. Contributions to associated plans increased too. Only employment plans’ contributions have decreased, in almost a 14%, which is less than the previous year that was of almost the 20%.

The assets managed by the Pension Funds increased in 6.75% thanks to the results obtained from the investments of the plans. On 31 December, 2013, the assets managed by Pension Funds reached 93,006 million euros.

The table below shows the changes in pension funds in Spain by number of registered pension funds and managed assets:

<table>
<thead>
<tr>
<th>Year</th>
<th>Registered funds</th>
<th>Assets (€ million)</th>
<th>Year</th>
<th>Registered funds</th>
<th>Assets (€ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1988</td>
<td>94</td>
<td>153,26</td>
<td>2001</td>
<td>802</td>
<td>44,605.62</td>
</tr>
<tr>
<td>1989</td>
<td>160</td>
<td>516,87</td>
<td>2002</td>
<td>917</td>
<td>49,609.91</td>
</tr>
<tr>
<td>1990</td>
<td>296</td>
<td>3,214.21</td>
<td>2003</td>
<td>1,054</td>
<td>56,997.34</td>
</tr>
<tr>
<td>1991</td>
<td>338</td>
<td>4,898.25</td>
<td>2004</td>
<td>1,163</td>
<td>63,786.80</td>
</tr>
<tr>
<td>1992</td>
<td>349</td>
<td>6,384.95</td>
<td>2005</td>
<td>1,255</td>
<td>74,686.70</td>
</tr>
<tr>
<td>1993</td>
<td>371</td>
<td>8,792.74</td>
<td>2006</td>
<td>1,340</td>
<td>82,660.50</td>
</tr>
<tr>
<td>1994</td>
<td>385</td>
<td>10,517.48</td>
<td>2007</td>
<td>1,353</td>
<td>88,022.50</td>
</tr>
<tr>
<td>1995</td>
<td>425</td>
<td>13,200.44</td>
<td>2008</td>
<td>1,374</td>
<td>79,753.20</td>
</tr>
<tr>
<td>1996</td>
<td>445</td>
<td>17,530.61</td>
<td>2009</td>
<td>1,420</td>
<td>86,318.91</td>
</tr>
<tr>
<td>1997</td>
<td>506</td>
<td>22,136.26</td>
<td>2010</td>
<td>1,504</td>
<td>85,852.31</td>
</tr>
<tr>
<td>1998</td>
<td>558</td>
<td>27,487.25</td>
<td>2011</td>
<td>1,570</td>
<td>83,954</td>
</tr>
<tr>
<td>1999</td>
<td>622</td>
<td>32,260.64</td>
<td>2012</td>
<td>1,761</td>
<td>87,122</td>
</tr>
<tr>
<td>2000</td>
<td>711</td>
<td>38,979.45</td>
<td>2013</td>
<td>1,761</td>
<td>93,096</td>
</tr>
</tbody>
</table>
2. Financial institutions

The number of management companies registered during 2012 on the Administrative Register of the Directorate-General of Insurance and Pension Funds totaled 93; in turn, the number of management companies registered as of December 31, 2013 was 90, decrease due in part to the merger procedures.

2.9. Securitization vehicles

In general, securitization consists of the conversion of collection rights into standardized fixed-income securities for possible subsequent trading on regulated securities markets, where they can be purchased by investors.

Securitization in Spain is carried out through asset securitization funds ("Asset Securitization Funds" or "ASFs"). ASFs are separate asset pools with no legal personality and with zero net worth, made up (a) as regards their assets, of financial assets and other rights that they group together and (b) as regards their liabilities, of the fixed-income securities they issue and loans granted by credit institutions.\(^\text{13}\)

Securitization funds are regulated in Royal Decree 926/1998, of May 14, 1998, regulating asset securitization funds and securitization fund management companies.

ASFs can be set up as closed-end funds (in which neither the assets nor the liabilities of the fund change after it is formed) and open-end funds (in which their assets and/or liabilities may be modified after they are formed).

Asset securitization vehicles are managed by specialized management companies ("securitization fund managers") whose sole purpose will be the formation, administration and legal representation of the fund.

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\(^{13}\) The Bill on Promoting Business Finance ("PLFFE") indicates that the assets of securitization funds will be made up either of the rights, present or future, that they group together, pursuant to the provisions of the PLFFE and, as regards their liabilities, of the fixed-income securities that they issue, credit facilities granted by any third party and any other obligations assumed pursuant to the deed of formation. In this respect, it should be borne in mind that the PLFFE may undergo changes as it passes through Parliament.
3. Markets

3. MARKETS

3.1. Securities Market

The Spanish securities market has seen major growth in recent years. This has been primarily due to harmonization with the markets of neighboring countries through the adoption of common European rules, and the introduction of new rules designed to streamline requirements and procedures in relation to public offerings and the admission to trading of securities on regulated secondary markets. Also, present-day securities market technical, operating and organizational systems allow for greater investment volumes. These factors have resulted in greater transparency, liquidity and efficiency in Spanish markets.

Recently, the global financial crisis has prompted large-scale volatility in stock prices, both at national and international level, associated with incipient but weak growth in the developed economies.

Spain’s basic securities market legislation is contained in Securities Market Law. The key features of the Spanish securities market are as follows.

3.1.1. Spanish National Securities Market Commission:

The Spanish securities market regulations are based on the Anglo-Saxon model, focused on protecting small investors and the market itself. This was the aim behind the creation of the National Securities Market Commission (CNMV)\textsuperscript{14}, which is the body responsible for supervision and inspection of the Spanish securities markets and for the activities of all who operate in them, overseeing market transparency, investor protection, and proper price formation.

The CNMV was created by Securities Market Law, which has been adapted to the requirements of the European Union for the development of the Spanish securities markets in the European context.

Broadly speaking, its functions may be summarized as follows:

- Supervising and inspecting of securities issues and securities market players.
- Exercising sanctioning powers.
- Advising the Government on securities market-related matters.
- Legislative power (through Circulars) for the proper functioning of the markets.

In the exercise of its powers, the CNMV receives a large amount of information, both from and about the market players, much of which is recorded in its official registers and is publicly accessible.

\textsuperscript{14} www.cnmv.es
3. Markets

The CNMV’s activities are aimed primarily at companies issuing securities and making public offerings, the secondary markets, investment firms and collective investment schemes.

The CNMV, through the National Numbering Agency, also assigns internationally-valid ISIN and CFI codes to all issues of securities made in Spain.

3.1.2. Primary market

The primary market means the set of rules and procedures applied to offerings of new securities and to public offerings of existing securities.

Notwithstanding the freedom of issue, any issue or placement of securities must meet, among others, the following requirements.

- Registration of a prospectus and of a simplified prospectus on the securities and the characteristics of the offering. The prospectus provides the investor with complete information on the issuer, its economic/financial position and other details of interest to allow an informed investment decision to be made. The simplified prospectus is a summarized version of the prospectus in terms more accessible to the unsophisticated investor.

One of the key primary market operations is the initial public offering (IPO), where one or more shareholders offer their shares to the public in general. There is no change in the capital stock, which simply changes hands (in whole or in part). In other words, no new shares are created in a secondary offering, but rather a certain number of existing shares are made available to the public in general.

3.1.3. Secondary markets

Secondary markets are markets where existing securities are transferred by their holders to other investors.

Official secondary markets operate in accordance with established rules on conditions of access, admission to trading, operational procedures, reporting and disclosure. These rules provide assurance for the investor and compliance is overseen by the governing company of each market (which lays down the rules) and by the CNMV.

These rules aim to guarantee market transparency and integrity, focusing on aspects such as the correct disclosure of market-sensitive information (transactions performed or events which may affect the stock price, among others), correct price formation, and the monitoring of irregular conduct by market participants, such as the use of inside information.

The Spanish secondary markets are mainly the equity markets (stock exchanges), the fixed-income markets (public and private) and the futures and options markets.

The issuers, whose securities (whether equity or fixed-income) are listed on Spanish secondary markets, are primarily ordinary corporations and Spanish credit institutions, as well as foreign
3. Markets

subsidiaries of Spanish companies. There are also foreign companies (European, mainly) whose shares are traded on Spanish stock exchanges.

In relation to the functioning of the regulated markets, 2002 saw the formation of Bolsas y Mercados Españoles, Sociedad Holding de Mercados y Sistemas Financieros, S.A. (BME)\(^\text{15}\). This was the response of the Spanish markets to a new international financial environment in which investors, intermediaries and companies demand a growing range of services and products within a secure, transparent, flexible and competitive framework. BME comprises the various companies responsible for directing and managing Spain’s securities markets and financial systems, including within a single group for the purposes of actions, decision-making and coordination, the following members:

- The Madrid, Barcelona, Valencia and Bilbao Stock Exchanges\(^\text{16}\).

- Sociedad de Bolsas, which is the company entrusted with the management and functioning of the Sistema de Interconexión Bursátil (SIBE), the electronic trading platform of the Spanish securities market\(^\text{17}\).

- The AIAF, Fixed-Income market, which is the financial bond (or fixed-income) market where securities issued by industrial companies, financial institutions and regional public bodies to raise funds to finance their activities are listed and traded\(^\text{18}\).

- Sociedad Rectora de Productos Derivados, S.A.U. (MEFF RV) and MEFF, Derivados de Renta Fija, S.A. (MEFF RF), responsible for the official Spanish futures and options market (equities and fixed-income securities, respectively)\(^\text{19}\).

- SENAF, the Electronic System for the Trading of Financial Assets, which is an electronic platform where Spanish public debt securities are traded\(^\text{20}\).

- Sociedad de Gestión de los Sistemas de Registro, Compensación y Liquidación de Valores (IBERCLEAR), which is the Spanish Central Securities Depository, responsible for registering in the accounts and for clearing and settling securities admitted to trading on the Spanish stock exchanges, the Public Debt Book-Entry Market, the AIAF Fixed Income Market, and the Latibex (the Latin American Securities Market denominated in Euros). IBERCLEAR uses two technical platforms: the Securities Clearance and Settlement System (SCLV) and the Bank of Spain’s Public Debt Book-Entry Office (CADE)\(^\text{21}\).

\(^{15}\) www.bolsasymercados.es\n
\(^{16}\) www.bolsamadrid.es; www.borsabcn.es; www.bolsavalencia.es; www.bolsabilbao.es\n
\(^{17}\) www.sbolsas.com\n
\(^{18}\) www.aiaf.es\n
\(^{19}\) www.meff.com\n
\(^{20}\) www.senaf.net\n
\(^{21}\) www.iberclear.es
3. Markets

The main secondary markets in Spain are as follows:

<table>
<thead>
<tr>
<th>Type of market</th>
<th>Purpose</th>
<th>Supervision, clearing and settlement</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fixed Income</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Debt Book-Entry Market</td>
<td>Trading of fixed-income securities represented by book entries issued both by national and supranational public bodies.</td>
<td>Bank of Spain; Iberclear.</td>
<td>• Interest rates and bond markets subject to great pressure due to worsening of worldwide financial crisis. • Significant increase in public debt held by nonresidents.</td>
</tr>
<tr>
<td>AIAF</td>
<td>Trading of all kinds of private fixed-income securities, except for instruments convertible into shares.</td>
<td>CNMV; Iberclear.</td>
<td>• Expansion in recent years due to growth of Spanish Fixed Income market. • Members include Spain’s main banks, broker-dealers and brokers.</td>
</tr>
<tr>
<td><strong>Equity</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stock exchanges</td>
<td>Exclusively for trading of shares and securities which are convertible or which carry rights of acquisition or subscription.</td>
<td>CNMV; Iberclear.</td>
<td>• Trading system: trading floor and SIBE electronic trading platform. • Decrease in volume in recent years due to crisis. • Foreign investment has made a significant contribution to the growth of the Spanish securities market. • The IBEX-35, the benchmark index of the Spanish continuous market, operates in real time and reflects the capitalization of the 35 most liquid companies of the SIBE.</td>
</tr>
<tr>
<td>Latibex</td>
<td>Trading of Latin American marketable securities with a price formation reference in European business hours.</td>
<td>CNMV; Iberclear.</td>
<td>• Uses the SIBE as its trading platform. • Not considered an official secondary market, although it operates in a very similar manner.</td>
</tr>
</tbody>
</table>
### SECONDARY MARKETS

| Futures and options market | Trading of financial futures and options | CNMV and Ministry of Finance; MEFF is in charge of clearing and settlement | • Internationally recognized.  
• Positive results in recent years due to growth in member numbers, new technological facilities and improvements and greater standardization in procedures.  
• The Olive Oil Futures Market stands out; not considered an official secondary market, although it operates in a very similar manner. |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Spanish financial futures market (MEFF)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### A) Fixed Income

(i) **Public Debt Book-Entry Market**

The purpose of the Public Debt Book-Entry Market is to trade fixed-income securities represented by book entries issued both by national and supranational public bodies.

The Bank of Spain is responsible for supervision and management of the Public Debt Book-Entry Market through the Public Debt Book-Entry Office.

In contrast to the traditional telephone trading system, in 2001 and 2002 the Spanish Council of Ministers authorized the creation of the Electronic System for the Trading of Financial Assets (SENAF), and in 2002 the Organized System for the Trading of Fixed-Income Securities (MTS ESPAÑA SON) managed by Market for Treasury Securities Spain, S.A. (MTS ESPAÑA). Both are Organized Trading Systems supervised by the CNMV and the Bank of Spain.

The Public Debt Book-Entry Market is particularly important in Spain and attracts both resident and non-resident investors. The favorable tax treatment enjoyed by non-residents on investments in these securities makes it a particularly attractive market. There has been a sharp increase in debt held by non-residents since the introduction of the single currency. These investors hold mainly 10- or 15-year highly-liquid strippable bonds. They come chiefly from France, Germany and the United Kingdom; beyond the EU, the growing presence of Japanese investors is particularly noteworthy.

Mention should also be made of the centralization of money market transactions through a book-entry system and the creation of the futures and options markets, linked to the book-entry system through which public debt securities are traded.

Iberclear is in charge of registering and settling transactions in securities admitted to trading on the Public Debt Book-Entry Market. Iberclear has links with the central securities depositories of Germany, France, Italy and the Netherlands, meaning that Spanish public debt
3. Markets

securities can be traded in those countries. Meffclear, a central counterparty in Public Debt Book-Entry securities managed by MEFF RF, began its operations in 2004.

(ii) AIAF Fixed-Income Market

This is the market for trading of all kinds of private fixed-income securities (companies and private institutions), except for those instruments which are convertible into shares (which are only traded on stock exchanges), and public debt (traded through the Public Debt Book-Entry Market). It is an organized secondary market specialized in large-volume trading, meaning that it is geared towards wholesale investors (i.e. it caters primarily for qualified investors).

The AIAF market has grown rapidly in recent years owing to the expansion of fixed-income securities in Spain. It was formed in 1987, through an initiative of the Bank of Spain, aiming to put new mechanisms in place to encourage business innovations which could be carried out by raising funds through fixed-income assets. The regulatory and supervisory authorities have gradually provided it with the features required to be able to compete in its environment.

In recent years the AIAF market has grown in size and is now comparable with the fixed-income markets of other EU countries, with the special feature that it is one of the very few Official Organized Markets in Europe dedicated exclusively to private fixed-income securities.

Through the AIAF and in accordance with their fundraising strategies, issuers offer investors a variety of assets and products across the full range of maturities and financial structures.

Under the supervision of the CNMV, the AIAF market guarantees the transparency of transactions and foments the liquidity of assets admitted to trading.

The AIAF Fixed-Income Market currently has about 80 members, including the leading banks, savings banks, and broker-dealers and brokers in the Spanish financial system. Transactions are cleared and settled through Iberclear.

B) Equity

(i) Stock exchanges

The Spanish stock exchanges (Madrid, Bilbao, Barcelona and Valencia) are the official secondary markets engaged in the exclusive trading of shares and securities which are convertible or which carry rights of acquisition or subscription. In practice, equity issuers also use the stock exchanges as a primary market for initial public offering (IPO) or capital increases.

The manner in which each stock exchange functions and is organized depends on the related stock exchange governing company.
3. Markets

There are currently two trading systems:

1. The trading floor (i.e. the traditional system). Each of the four stock exchanges has its own trading floor. Under this system, the stock exchange members trade through an “electronic floor called a “pit” (which was the place in the stock exchange where securities were traditionally traded). This is now a resi market, accounting for less than 1% of total trading.

2. The SIBE electronic trading platform is managed by Sociedad de Bolsas which connects up the four Spanish stock exchanges. It is an order-driven market, which offers real-time information on all stock price fluctuations and permits the issue of orders through computer terminals to a central computer. In this way, a single Market Order Book is managed for each security.

Practically all the share trading in Spain is made through the SIBE. All securities admitted to trading on at least two stock exchanges can, at the request of the issuer and subject to a favorable report by the Sociedad de Bolsas and the agreement of the CNMV, be traded through this system.

<table>
<thead>
<tr>
<th>Table 10</th>
<th>NUMBER OF COMPANIES LISTED ON SPANISH STOCK EXCHANGES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>All markets</td>
</tr>
<tr>
<td>Listed on 12/31/12</td>
<td>158</td>
</tr>
<tr>
<td>Listed on 12/31/12</td>
<td>153</td>
</tr>
<tr>
<td>Listings in 2013</td>
<td>1</td>
</tr>
<tr>
<td>Listings</td>
<td>1</td>
</tr>
<tr>
<td>Listed due to merger</td>
<td>0</td>
</tr>
<tr>
<td>Change of market</td>
<td>0</td>
</tr>
<tr>
<td>Delistings in 2013</td>
<td>6</td>
</tr>
<tr>
<td>Delistings</td>
<td>4</td>
</tr>
<tr>
<td>Delistings due to mergers</td>
<td>2</td>
</tr>
<tr>
<td>Change of market</td>
<td>0</td>
</tr>
<tr>
<td>Net variation in 2012</td>
<td>-5</td>
</tr>
</tbody>
</table>

Stock market activity is measured in terms of performance indexes, based on share prices as the best indicator of market price. Thus the index shows price fluctuations and the market trend at different points in time.
3. Markets

The IBEX-35 is the benchmark index of the Spanish continuous market. It operates in real time and reflects the capitalization of the 35 most liquid companies traded on the electronic stock market, making it an essential information tool for brokers and dealers. The index is not subject to any kind of manipulation and the securities forming part of it are reviewed twice annually.

To be included in the index, certain guidelines must be observed, such as:

- The company must be traded on the continuous market for at least six months (control period).
- Companies with a market capitalization of less than 0.3% of the average capitalization of the IBEX-35 cannot be included.
- The security must have been traded in at least one third of the sessions in the six-month control period. If this is not the case, the security could still be chosen if it were within the top 15 securities by capitalization.
- Rules on the weighting of companies according to their free float must be observed.

The following chart shows the variations in this index in the past year.

(ii) Latibex Market

The Market for Latin American Securities in Euros (“Latibex”) came into operation at the end of 1999. This market was formed to provide Latin American listed companies with a price formation reference in European business hours, supported by the key role played by the Spanish economy in Latin America. This market uses the SIBE as its trading platform.

Latibex is not classed as an official secondary market, although it operates in a very similar way to a stock market. It is a multilateral market, where the trades executed on the market are cleared by Iberclear in three days. There are currently 26 entities which have issued securities included in Latibex, all of which are listed on a Latin American stock exchange.
3. Markets

Table 11

<table>
<thead>
<tr>
<th>MAIN CHARACTERISTICS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Market</strong></td>
</tr>
<tr>
<td><strong>Platform for trading</strong></td>
</tr>
<tr>
<td><strong>Currency:</strong></td>
</tr>
<tr>
<td><strong>Trading:</strong></td>
</tr>
<tr>
<td><strong>Settlement:</strong></td>
</tr>
</tbody>
</table>

**Connected to the home market by agreements between Iberclear and the Latin American central depositories or through a liaison institution.**

**Intermediaries:** All of the members of the Spanish stock market currently operate. Latin American market operators have also joined recently.

**Specialists:** Intermediaries who undertake to offer bid / ask prices at all times.

**Indexes:**

i) FTSE Latibex All Share, which includes all the companies listed on Latibex.

ii) FTSE Latibex Top, which brings together the 15 most liquid securities in the region listed on Latibex.

iii) FTSE Latibex Brazil, which brings together the most liquid Brazilian securities listed on Latibex.

* The three indexes are produced in conjunction with FTSE, the Financial Times Group firm that designs and prepares indexes.

**Transparency of information:** The listed companies provide the market with the same information they supply to the regulators of the markets where their securities are traded.

Source: BME

C) Futures and Options Market

The Futures and Options Markets are derivatives markets, and their role is to allow the risks arising from adverse fluctuations, and in relation to a particular positioning of an economic agent, to be hedged. The Spanish futures and options market is called MEFF (Mercado Español de Futuros Financieros –Spanish Financial Futures Market).

MEFF is the official secondary market for financial futures and options, where fixed-income and equity financial futures and options contracts are traded. It commenced operations in November 1989 and its main activity is the trading, clearing and settlement of futures and options contracts on government bonds and the IBEX-35, S&P Europe 350 indexes, and futures and options on shares. It is fully regulated, controlled and supervised by the relevant authorities (the CNMV and the Ministry of Economic Affairs and
3. Markets

Competitiveness), and performs trading functions as well as clearing and settlement functions, which are perfectly integrated within the electronic market developed for that purpose.

As a result of the development of derivatives markets, 2010 saw the approval of Royal Decree 1282/2010, of October 15, 2010, regulating the official markets for futures, options and other derivative instruments. Royal Decree 1282/2010 regulates in particular the creation, organization and operation at national level of official secondary markets for futures and options, i.e. the necessary authorization of these markets, the registration of derivative instruments contracts, contracts for derivative financial instruments (general conditions, suspension of trading, exclusion of contracts), the governing companies and the market members, as well as the guarantees and non-compliance schemes.

Any individual or legal entity, whether Spanish or foreign, can be a client and trade on the MEFF Market, buying and/or selling futures and options.

Mention should be made of the approval of Regulation 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties (CCPs) and trade repositories (TRs) (EMIR), which entered into force on August 16, 2012. This regulation imposes obligations on all investors who trade derivative contracts, regardless of their level of sophistication, be they financial or non-financial institutions, although the intensity of their obligations will be proportional, generally, to their level of activity and the use to which they put the derivatives.

As can be observed in the following chart, in the last year, with a slight upturn, the 2010 to 2013 years trend was broken, years have seen a decline in the volume of contracts traded on the Spanish futures and options market was reported, following the peak recorded in 2009, with a total of, 67.57 million in 2011, 67.18 million in 2012, 54.69 million in 2013 and 56.30 million in 2014.

Olive oil futures contracts have been traded on the Olive Oil Futures Market (MFAO) since February 6, 2004, the date of its opening. It is the only Futures Market in the world where olive oil is traded.

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22 [www.meff.com](http://www.meff.com)
23 [www.mfao.es](http://www.mfao.es)
3. Markets

3.1.4. Other securities market-related figures:

A) Takeover Bid

“Takeover bid” means a public offer made to the holders of shares or other securities of a company to acquire all or some of those securities, whether mandatory or voluntary, which follows or has as its objective the acquisition of control of the target company.

The Spanish legislation on takeover bids is contained in the Securities Market Law for Modification of the Regime on Tender Offers and the Transparency of Issuers, and in Royal Decree 1066/2007 of July 27, 2007, on Takeover Bids. The aim of this legislation is to protect minority shareholders of listed companies.

Under the Royal Decree (subject to the exceptions it specifies), a takeover bid must be made for all the securities and addressed to all the holders of the securities, for an equitable price where:

(i) Control of a listed company is attained:

A person is deemed to have attained control where:

a. He/she attains, directly or indirectly, a percentage of voting rights equal to or greater than 30% of the capital stock of the target company;

b. Having attained, directly or indirectly, a percentage of voting rights lower than 30%, he/she appoints, within two years after the date of the above acquisition, a number of directors who, when added as the case may be to those already appointed, represent more than half of the members of the board of directors.

Where a takeover bid is not mandatory because the control thresholds for these purposes have not been reached, or because control was acquired before the new legislation on tender offers entered into force, takeover bids may be made on a voluntary basis.

(ii) The shares of a listed company are delisted from the stock market.

(iii) The capital of a listed company is reduced through the purchase of its own shares.

B) Multilateral Trading Systems (MTSs) and Systematic Internalizers

MTSs mean any system operated by an investment firm or by the governing body of an official secondary market which bring together, within the system and in accordance with its non-discretionary rules, the buyers and sellers of financial instruments to give rise to contracts, in accordance with the provisions of the Securities Market Law.\(^{24}\)

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\(^{24}\) This reflects one of the main changes introduced by Directive 2004/39/EC, which is the enhancement of competition among different ways of executing transactions on financial instruments, so that competition contributes to the completion of the common market of investment services. This way, investment firms and financial institutions providing investment services will.
3. Markets

The forerunners of these systems in Spain were the unofficial organized trading systems or markets recognized by the former Securities Market Law. Law 47/2007, of December 19, recognizes their existence in the European context and establishes certain organizational and transparency requirements for the stages both prior and subsequent to the trading of shares similar to those applicable in official secondary markets.

It’s noteworthy that the Spanish clearing, settlement and registry system is currently undergoing a reform process, to bring Spain’s current post-trade processes into line with European standards and practices.

The most important MTSs authorized in Spain are the Alternative Stock Market (MAB) and the Alternative Fixed-Income Market (MARF).

The Alternative Stock Market (MAB) is a market for small-cap companies looking to expand, with a special set of regulations designed specifically for them with costs and processes tailored to their particular characteristics.

The ability to offer customized services is the hallmark of this alternative market. The aim is to adapt the system, as far as possible, to companies that are unique in terms of their size and phase of development and that have ample financing needs and wish to enhance the value of their business and improve their competitiveness with all of the tools that a securities market places at their disposal. The MAB offers an alternative way to finance their growth and expansion.

This flexibility involves adapting all of the existing procedures to enable these companies to be listed on a market without renouncing a suitable level of transparency. To achieve this, a new concept has been introduced, that of the “registered advisor”, whose mission is to help companies comply with their reporting requirements.

In addition, companies will also have a “liquidity provider”, or intermediary, which helps to find the counterparties required for efficient share price setting, and also provides liquidity. It should be noted, however, that companies that are listed on the MAB will, given their size, have certain liquidity and risk characteristics that are different from those of companies listed on the stock exchange\(^{25}\).

Spanish or foreign corporations with fully paid-up capital stock represented by book entries and no share transfer restrictions may apply for listing on the MAB.

Among the companies listed the MAB are SICAVS and SOCIMIs.

The Alternative Fixed-Income Market (MARF) was approved in 2012, which is an initiative aimed at channeling financial resources to a large number of solvent companies that can obtain financing using this market on the issuance of fixed-income securities.

\(^{25}\) Source: http://www.bolsasymercados.es/
3. Markets

The MARF adopts the legal structure of the Multilateral Trading Facility (MTF), making it an alternative unofficial market, similar to those in some neighboring European countries and within BME, as with the case of the MAB.

Therefore, the access requirements to this market are more flexible than those for the official regulated markets and provide greater speed in processing the issues. In this the companies that use MARF are be able to benefit from the process simplification and lower costs.

As established in its Regulations, approved by the Spanish Securities Market Regulator (CNMV), MARF is operated by AIAF Mercado de Renta Fija, S.A.U.

MARF is aimed mainly at Spanish and foreign institutional investors that wish to diversify their portfolios with fixed-income securities from medium-sized companies that are usually not listed and with good business prospects.

One of the players are the Registered Advisors, whose function will be to provide advice to companies that use MARF in terms of the regulatory requirements and other aspects about the issuance when preparing it, and their advice must be provided throughout the issuance life.

Because of the importance of this market at present and in the future as a source of financing and business boost, the regulatory and supervisory authorities have been amending the necessary regulations so that this market works smoothly.

The systematic internalization is defined under Law 47/2007 as another investment service reserved for investment firms. In actual fact, it was giving legal recognition to a third alternative method to trade financial instruments which was already being implemented by investment firms, that is, execution on own account, internally, in an organized and systematic way of clients’ orders on financial instruments listed on official secondary markets.

C) Market abuse regime

Any party that pursues, directly or indirectly, activities related to securities markets will be subject to the legislation on market abuse. Spanish legislation contains a number of provisions applicable to issuers of securities in relation to:

(i) The obligation to draw up internal codes of conduct;

(ii) The prohibition on using inside information; and

(iii) The obligation to publish and disclose relevant information.

“Inside information” means any specific information that refers directly or indirectly to one or more transferable securities or financial instruments, or to one or more issuers of those transferable securities or financial instruments, that is not public and that, if it became or had

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26 Source: www.bmerf.es

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3. Markets

become public, could influence or has considerably influenced their market price on a market or organized trading system. All those who possess inside information (including company directors) must refrain from engaging for their own account or the account of others, directly or indirectly, in any of the following conduct:

(i) Preparing or performing any transaction in transferable securities or in financial instruments to which the information refers, or in any other security, financial instrument or contract of any kind, whether or not traded on a secondary market, that has as its underlying the transferable securities or financial instruments to which the information refers.

(ii) Disclosing such information to third parties, except in the normal course of their work, profession or office.

(iii) Recommending a third party to acquire or transfer marketable securities or financial instruments or have others acquire or transfer such securities or financial instruments based on such information.

Issuers of securities, during the study or negotiation phase of any type of legal or financial transaction which may have a considerable influence on the market price of the securities or financial instruments concerned, among others, must:

(i) Restrict knowledge of the information strictly to the essential persons inside or outside the organization.

(ii) Keep a documentary record for each transaction of the names of the persons referred to in the previous paragraph and the date on which each of them learned of the information.

(iii) Expressly inform the persons included in the record of the nature of the information, the duty of confidentiality and the prohibition on its use.

(iv) Establish security measures for the purposes of safekeeping, filing, accessing, reproducing and distributing the information.

(v) Supervise the market performance of the securities issued by them and the news reported by professional economic broadcasters and the mass media and which may affect them.

“Relevant information” means any information of which knowledge may reasonably influence an investor to acquire or transfer securities or financial instruments and therefore may have a considerable effect on their price in a secondary market.

Issuers of securities must make public and disclose to the market all relevant information. In addition, they must send such information to the CNMV for inclusion on the official register of regulated information.
3. Markets

3.2. Lending market

The Spanish lending or banking market is structured around banks, savings banks and credit cooperatives, which channel most savings and use their funds to provide financing for the private sector. In this way, credit institutions take funds from savers and assume the obligation to return them, acting for their own account and at their own risk when it comes to granting loans and other types of financing to the end consumers of financial resources.

Credit institutions also operate as investors and subscribers in the stock market, and adjust their liquidity by means of interbank and money market transactions.

The deregulation of capital movements in the EU has also made it easier for Spanish companies to obtain financing abroad.

The idea of granting enhanced protection to the integrity of financial systems led to the adoption of Law 10/2010, of April 28, 2010, on the prevention of money laundering and terrorist financing. The purpose of this Law is to regulate the obligations and procedures to prevent the financial system and other economic systems being used for money laundering. This Law includes certain new provisions relating to: (i) the persons subject to the Law (increasing the number of persons covered, establishing common rules for all types of individuals); (ii) reporting obligations (notification in case of signs of illicit activity, record-keeping obligation increased from 6 to 10 years); (iii) internal control of the fulfillment of obligations (external expert examination for all non-individual subjects, greater employee training obligations); and (iv) introduction of the concept of beneficial owner and the need to identify such owner.

3.3. Money market

The money market in Spain is based fundamentally on the issuance of short-term securities by the Bank of Spain which are taken up by banks, finance institutions and money market operators which subsequently place a portion of them with individual investors and businesses.

In a broader sense, the money market is also deemed to encompass interbank deposits (whose interest rates are used as a reference rate for other transactions) and trading commercial paper.

The money market has become increasingly important as a result of the deregulation and move towards greater flexibility of the Spanish financial system overall in recent years, given that interest rates are ordinarily higher than the rate of inflation and given the substantial volume of trading in money market securities.
4. Safeguards to protect financial services customers

4. SAFEGUARDS TO PROTECT FINANCIAL SERVICES CUSTOMERS

4.1. Deposit guarantee fund and investment guarantee fund

4.1.1. Deposit Guarantee Fund

The Deposit Guarantee Funds fall within the mechanisms of control and special support that seek to prevent the occurrence of insolvency situations at credit institutions. They are entities with public legal personality which credit institutions must necessarily join, as must the branches of credit institutions authorized in a non-EU Member State where their deposits in Spain are not covered by a similar guarantee system in their home country. The assets of the funds basically consist of the annual contributions made by the credit institutions that are members of the fund.

As a result of the events that have affected the international financial economy since August 2007, Europe is in financial turmoil. With the aim to coordinate the acts of the various Member States and secure the stability of the financial system, the Economic and Financial Affairs Council of the European Union welcomed the European Commission’s proposal to carry out urgently an appropriate initiative to promote convergence of deposit guarantee schemes and agreed to raise the minimum coverage level to €50,000. This decision was implemented in Spain in Royal Decree 1642/2008, of October 10, 2008 (now repealed by Royal Decree 628/2010, of May 14, 2010), in which it was decided to strengthen the Spanish deposit and investment guarantee system by raising the protection for existing deposits to one hundred thousand euros (€100,000) per holder and institution, for situations that could arise in the future. The intention behind this measure is to maintain and increase the confidence of deposit holders and investors at Spanish credit institutions.

The aim of the Deposit Guarantee Fund legislation is to reinforce the solvency and functioning of credit institutions, thereby supporting the essential principle established by the international financial authorities and by the Spanish government as the basis of public intervention in light of the financial crisis, i.e. that the financial sector itself assume the costs incurred in the restructuring and recapitalization of the sector, so that the reform package will imply no cost for the public purse and, in short, for the taxpayer.

4.1.2. Investment Guarantee Fund (FOGAIN):


The purpose of the FOGAIN is to offer the clients of broker-dealers, brokers and portfolio management companies a compensation scheme in the event that any of these institutions enters into insolvency proceedings or is declared insolvent by the CNMV.

If one of these situations arises, and as a result of it, the institution is unable to repay or return to its clients the cash and securities they have entrusted to it, the FOGAIN will provide coverage and
4. Safeguards to protect financial services customers

compensate those clients up to a maximum of €100,000 for clients of institutions that enter into one of these situations after October 11, 2008.

The FOGAIN also covers clients of SGIICs that have entrusted one of these institutions with securities and cash to manage portfolios, provided that the institution in question has entered into one of the above-mentioned insolvency situations.

4.2. Other safeguards to protect financial services customers

some of the most important safeguards to protect financial services customers can be summarized as follows:

• The replacement of the Commissioner for the defense of banking services customers with the respective Claims Services of the three supervisory institutions (Bank of Spain, National Securities Market Commission and Directorate-General of Insurance and Pension Funds) pursuant to Sustainable Economy Law 2/2011.

The Claims Service resolves any complaints and claims filed by users of the supervised institutions that are related to their legally recognized interests and rights and arise from alleged breaches by those institutions, from the legislation on transparency and customer protection or from best financial practice.

It also addresses any customer queries about the applicable rules on transparency and customer protection, and about the existing legal channels for exercising their rights.

The Claims Service operates under the one-stop shop principle (Claims Services of the Bank of Spain, of the CNMV and of the Directorate-General of Insurance and Pension Funds), with any claims being referred to the corresponding supervisory body. It is an independent service that operates in compliance with the principles of transparency, the right of reply, efficacy, legality, freedom and representation.

Before filing a claim with the Claims Service, the interested party must have had the opportunity to solve it beforehand and therefore must evidence that he/she already filed the claim with the Customer Service Department or Ombudsman of the institution in question.

• With regard to the above point, an obligation is placed on credit institutions, investment firms and insurers to deal with and resolve their customers’ complaints and claims relating to their interests and rights. For these purposes, they must have a customer care department consisting of an independent body or expert, whose decisions will be binding.

The purpose of the customer care department or service is to handle and resolve complaints and claims filed by customers. This department or service must be separate from the organization’s other operating services and must act in accordance with the principles of speed, security, effectiveness and coordination. It must also have the human, material, technical and
4. Safeguards to protect financial services customers

organizational resources that ensure adequate knowledge of the legislation on transparency and the protection of financial services customers.

The customer ombudsman is an optional body which may be external to the organization of financial institutions. Its purpose is to handle and resolve the claims which are submitted to it for a decision and to promote compliance with the legislation on transparency and customer protection, and with best financial practice. The customer ombudsman must act as an independent body and with full autonomy with respect to the criteria and guidelines to be applied in the performance of its duties.

Both bodies were implemented by Ministerial Order ECO/734/2004 of March 11, 2004, which regulates the creation of customer care departments and services and the customer ombudsman for financial institutions.

- Financial institutions must prepare and approve a set of Customer Protection Rules to regulate the work done by the customer care department or service and by the customer ombudsman, where appropriate, and the relationship between the two. Lastly, the customer care department or service and the customer ombudsman, where appropriate, must issue an annual report or summary which must be included in the financial institutions’ Annual Report.


The aim of Law 22/2007 is to establish a specific regime for the protection of users of financial services which is applicable to contracts offered, traded and concluded at a distance. This Law applies both to contracts and the offers related to them, provided that they generate obligations on the part of the consumer, and their subject matter must be the provision to consumers of all kinds of financial services, within the framework of a system of sale or provision of services at a distance organized by the supplier, when such system employs exclusively distance communication techniques, even in the actual conclusion of the contract.

The most noteworthy aspects of Law 22/2007 are the following:

a) It establishes the obligation for the financial service provider to notify the terms and conditions of the contracts and provide prior information to the consumer. Any breach by the provider of the disclosure obligations imposed by Law 22/2007 may result in the contract being rendered null and void.

b) It recognizes a right of withdrawal: this is the consumer’s right to withdraw from a validly concluded contract without being required to state the reasons and without incurring any penalty. This is a kind of “right to repent”. The period for exercising this right is generally 14
4. Safeguards to protect financial services customers

calendar days, although in the case of contracts relating to life insurance it is 30 calendar
days.

c) It provides further guarantees in addition to the two basic consumer protection mechanisms
described above (transparency and withdrawal). These guarantees serve two purposes:

(i) They protect the consumer from fraudulent or incorrect charges when the financial
services have been paid for by card: the cardholder may demand the immediate
Cancellation of the charge.

(ii) They protect the consumer from harassment by suppliers in relation to unsolicited
services and communications.

• Ministerial Order EHA/2899/2011 on transparency and protection for banking services customers
was approved on October 28, 2011. The aim of this Ministerial Order is to concentrate the basic
transparency regulations in one single text, bringing together the existing disperse regulations
into one single document in such a manner so as to make them clearer and more accessible to
the general public.

It also aims to update the existing provisions relating to the protection of bank customers who are
individuals, to rationalize, improve and enhance, where necessary, credit institutions’ transparency
and conduct obligations. Thus, the requirements in aspects such as information on interest rates
and charges, customer communications, contractual information, related financial services, etc.,
have been enhanced. The Ministerial Order also includes express mention of advisory services,
with a view to ensuring that this banking service is provided with the customers’ best interests
at all times, and that it includes an appropriate assessment of their position and of the services
available on the market. It therefore draws a distinction between this service and direct marketing
by institutions of their own products, an activity that is subject to the general transparency regime
and requires the appropriate explanations. In addition, it definitively establishes that electronic
means will be deemed equivalent, for all effects and purposes, to traditional paper documents,
in the relationship between credit institutions and their customers. This Order is implemented by
Bank of Spain Circular 5/2012.

Lastly, the Ministerial Order implements the general principles of the Sustainable Economy
Law concerning responsible lending, introducing the obligations needed to ensure that the
Spanish financial industry raises its prudential standards in respect of lending, to the benefit of
its customers and of market stability. For these purposes, a system has been designed based on
an assessment of creditworthiness which aims to assess the risk of nonpayment of a possible
loan. This system should not, in any case, represent an obstacle to access to credit by the general
public, but rather a legal incentive for healthier and more prudent conduct on the part both of
institutions and their customers.

• In addition, the rules of conduct that investment firms must observe are contained both in
Securities Market Law and in Royal Decree 217/2008 on the legal regime for investment firms.
4. Safeguards to protect financial services customers

In this connection, note should also be made of CNMV Circular 7/2011, of December 12, 2011, on fee schedules and standard contracts. With a view to encouraging transparency, the aim is for investors to have sufficient information to enable them to assess whether or not the fees charged are proportional to the quality of the service provided. It is an incentive for institutions to effectively set their fee ceilings in keeping with those generally applied to retail customers.

It also establishes that fee schedules and standard contracts must be available to customers and potential customers in all customer branches, including external agencies, and that they must also be easily accessible on their websites.

Lastly, note should be taken of the publication of two ministerial orders: Order EHA/1717/2010 and Order EHA/1718/2010\textsuperscript{28}, of June 11, on regulation and control of advertising of investment and banking products and services, respectively.

\textsuperscript{28} Implemented by the Bank of Spain Circular 6/2012, of September 28, aimed at credit and payment institutions, on advertising of banking products and services.
This guide was researched and written by Garrigues on behalf of ICEX-Invest in Spain.

This guide is correct to the best of our knowledge and belief at the date indicated below. It is, however, written as a general guide, so it is necessary that specific professional advice be sought before any action is taken.

Madrid, March 2015
This chapter contains details of the main accounting, commercial bookkeeping and audit obligations to be observed by Spanish enterprises. According to Spanish legislation, all enterprises are required to keep orderly accounts, in keeping with their business, including a book of inventories and balance sheets book and a journal.

Companies must also keep one or more minutes books in which all the resolutions adopted by the annual and special shareholders’ meeting and other collective bodies of the company must be recorded.

The Spanish National Chart of Accounts approved by Royal Decree 1514/2007, of November 16, 2007, establishes, in accordance with the European Union’s accounting convergence process, the accounting principles that aim to ensure that financial statements, prepared clearly, present fairly a company’s equity, financial position and results of operations, incorporating the accounting criteria contained in the International Accounting Standards.
Annex III
Accounting and audit issues

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1. Legal framework

1. LEGAL FRAMEWORK


In this regard, the aforementioned Community legislation had been approved as a result of the need for international accounting harmonization, in order to, inter alia, (i) ensure the transparency and comparability of financial statements, (ii) achieve efficient operation of EU capital markets, (iii) close the legal vacuums in the somewhat scant regulations for the accounting Directives and their similarly low level of implementation and (iv) clarify the diversity of legislation.

From the standpoint of accounting, the approval of Regulation (EC) no. 1606/2002 of the European Parliament and of the European Council, of July 19, 2002, in relation to the application of International Accounting Standards (IASs) in the European Union, and the report on the current situation of accounting in Spain and the basic lines to undertake its reform, also known as the White Paper on Accounting Reform in Spain, published by the Spanish Accounting and Audit Institute (ICAC) on June 25, 2002, marked the starting point for the direction that was to be taken in the accounting reform process as a whole in Spain.

That Regulation made it obligatory for companies to apply the IASs approved by the IASB (International Accounting Standards Board), for each financial year starting on or after January 1, 2005, with respect to their consolidated financial statements if at their balance sheet date their securities are admitted to trading on a regulated market of any member state.

The member states were also given the option to allow or require those standards to be applied to the separate financial statements of listed companies, to the consolidated financial statements of unlisted companies and to the separate financial statements of unlisted companies.

In this regard, in Spain it was established that the general approach to be adopted should not be the direct application of IASs or IFRSs (International Financial Reporting Standards) in their most recent version, but rather to adapt Spanish GAAP thereto, solely introducing the accounting treatments that the aforementioned standards establish on an obligatory basis, and where IFRSs establish different accounting treatment options, taking the option that the legislature considered to be the most prudent and in keeping with the tradition in Spanish accounting practice.
1. Legal framework

Also, a hierarchy of sources was established to distinguish between (i) fundamental legislation, i.e. the Commercial Code and the Revised Spanish Corporations Law\(^1\), which must contain basic, stable and lasting principles, (ii) implementing regulations, i.e. the Spanish National Chart of Accounts, its industry adaptations (as described below) and (iii) the resolutions of the ICAC, which would contain more detailed rules, the contents of which could be modified with greater ease.

This point marked the start of a process of reform in Spain, firstly, with the approval of Law 62/2003, of December 30, 2003, on Tax, Administrative, Labor and Social Security Measures which was the first step taken in the adaptation of Spanish corporate accounting legislation for its international harmonization based on European legislation.

This process reached its maximum expression in 2007 when important legal provisions were passed, wrapping up the main areas in the process of adapting Spanish accounting legislation to international accounting legislation:

- Law 16/2007, of July 4, 2007, reforming and adapting Spanish corporate accounting legislation for its international harmonization based on European legislation, which made significant amendments to the Commercial Code, and to the then in force Revised Spanish Corporations Law, Limited Liability Companies Law and other industry-based accounting standards and, lastly, adapted for the first time the Corporate Income Tax Law to the new accounting legislation.


- Royal Decree 1515/2007, of November 16, 2007 approving the Spanish National Chart of Accounts for small and medium enterprises (SMEs) and the specific accounting rules for very small enterprises (VSEs).


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1 The legislation on Spanish corporations is now contained in the Revised Corporate Enterprises Law, approved by Legislative Royal Decree 1/2010, of July 2, 2010, which repealed both the Revised Spanish Corporations Law and the Spanish Limited Liability Companies Law, to recast both of these laws in a single instrument which also includes the provisions in the Spanish Securities Market Law governing the more purely corporate matters of corporations whose securities are admitted to trading on an official secondary market, and the articles related Spanish partnerships limited by shares in the Spanish Commercial Code.
1. Legal framework

In addition, there is a process of industry-based accounting legislation being adopted, among which the following industry adaptations to the new Spanish National Chart of Accounts have been already approved:

- Royal Decree 1317/2008, of July 4, approving the Spanish National Chart of Accounts for insurance companies.


- Order EHA/3362/2010, of December 23, approving the rules adapting the Spanish National Chart of Accounts to concession holders for public infrastructure.

- Order EHA/733/2010, of March 25, approving accounting standards for public companies operating in certain circumstances.

- Royal Decree 1491/2011, of October 24, approving the provisions adapting the Spanish National Chart of Accounts to not-for-profit entities and the model action plan for not-for-profit entities.

In relation to the other industries for which an adaptation was adopted before the approval of the currently in force Spanish National Chart of Accounts (such as, for example, construction companies, real estate companies, sports federations, healthcare companies, sports corporations, electricity companies, companies in the grape growing and wine producing industry), the earlier industry adaptations remain in force, insofar as they do not conflict with the new legislation, in conformity with Transitional Provision number five of Royal Decree 1514/2007, of November 16, approving the new Spanish National Chart of Accounts.

From the standpoint of auditing, the approval of Legislative Royal Decree 1/2011, of July 1, and its implementing regulations, approved by Royal Decree 1517/2011, of October 31, recast the applicable legislation in this respect (see section 8, “Auditing Requirements”).

The existing new legislation is supplemented and construed with the ICAC’s resolutions and responses to requests. Particularly in relation to the interpretation of accounting legislation, it must be borne in mind that the ICAC stated in Ruling 1 of its Official Gazette 74/JUNE, 2008, that where the legislation does not provide for a given matter or there are doubts as to its interpretation, the directors must use their professional judgment while respecting the framework of the new Spanish National Chart of Accounts and “generally accepted accounting principles in Spain”. Also, the ICAC states that, although IFRSs may serve as an interpretative criterion, their mandatory application on a supplementary basis to separate financial statements is not envisaged. Notwithstanding this, IFRSs will apply directly to the consolidated financial statements of listed entities.
2. Accounting records

2. ACCOUNTING RECORDS

The rules governing the accounting records that have to be kept by companies are contained in the Commercial Code, which requires all traders to keep orderly books of account that are suitable for their business and to keep a book of inventories and balance sheets and another journal, without prejudice to the records required under laws or special provisions.

Companies are also required to keep a book or books of minutes containing, at least, all the resolutions adopted by the shareholders at the Annual General or Special General Meetings and by the companies’ other collective bodies.

As regards the formal requirements applicable to the accounting records, the Commercial Code provides that companies must present their mandatory books of account to the Mercantile Registry of the place in which they have their registered office in order that they be officially certified and stamped before they start to be used.

Entries and notes may be made by any suitable procedure on separate sheets that must subsequently be bound sequentially to form part of the mandatory books of account, which must be legalized within four months from the end of the related reporting period.

These formal requirements also apply to the share registers of corporations, partnerships limited by shares and limited liability companies, which may be kept on electronic files.
3. Financial statements

3. FINANCIAL STATEMENTS

Both the Commercial Code and the Revised Spanish Corporate Enterprises Law state that a set of financial statements comprises a balance sheet, an income statement, a statement reflecting the changes in equity during the period, a cash flow statement and notes to the financial statements, with these documents constituting a set of information for these purposes (a directors’ report is also required, although it is not considered to be a constituent part of the financial statements). However, the cash flow statement is not obligatory where so established by a legal provision (e.g. for companies that are permitted to prepare a balance sheet and statement of changes in equity in abridged format, as explained below).

Both the Spanish Commercial Code and Revised Spanish Corporate Enterprises Law provide for accounting principles and measurement bases. Also, the Revised Spanish Corporate Enterprises Law specifies the disclosures to be included in the notes to the financial statements.

The Spanish National Chart of Accounts sets out the contents to be included in the separate financial statements, and its application by all companies is mandatory, regardless of whether their legal form is that of a sole proprietorship or a company, without prejudice to such companies as are in a position to apply the Spanish National Chart of Accounts for small and medium enterprises (SMEs) or the relevant industry adaptations, and constitutes the implementation for accounting purposes of Spanish corporate and commercial legislation.

The content of the Spanish National Chart of Accounts is as follows:

- Part one: conceptual accounting framework.
- Part two: recognition and measurement bases.
- Part three: financial statements.
- Part four: chart of accounts.
- Part five: accounting definitions and relationships.

The Standards for the Preparation of Consolidated Financial Statements were approved in Royal Decree 1159/2010.
4. Conceptual accounting framework and recognition and measurement bases

4. CONCEPTUAL ACCOUNTING FRAMEWORK AND RECOGNITION AND MEASUREMENT BASES

In relation to the practical application of the Spanish National Chart of Accounts, after a first part which sets out the conceptual accounting framework, part two establishes recognition and measurement bases for the various asset, liability and income statement items.

Following is a brief summary of the main features contained in the conceptual framework and in the most significant recognition and measurement bases introduced by the Spanish National Chart of Accounts currently in force.

| Table 1 |
| FEATURES OF THE VALUATION RULES IN FORCE SINCE 2008 |

<table>
<thead>
<tr>
<th>Area</th>
<th>Spanish national chart of accounts (SNCA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Components of financial statements</td>
<td>The financial statements comprise a balance sheet, an income statement, a statement of changes in equity a cash flow statement and notes.</td>
</tr>
<tr>
<td>Statement of changes in equity and cash flow statement</td>
<td>These are added as new documents to be included in the financial statements along with the balance sheet, income statement and notes. The cash flow statement is to be prepared using the indirect method. The statement of changes in equity has two parts: the statement of recognized income and expense and the statement of total changes in equity.</td>
</tr>
<tr>
<td>Requirements concerning information to be included in the financial statements</td>
<td>The information included in the financial statements must be relevant and reliable. A quality deriving from reliability is completeness. Also, the financial information must be comparable and clear.</td>
</tr>
<tr>
<td>Accounting principles</td>
<td>The obligatory accounting principles are: going concern, accrual, consistency, prudence, no offset and materiality.</td>
</tr>
<tr>
<td>Offsetting</td>
<td>Except when a standard expressly provides otherwise, the no offset principle shall be applied. The SNCA defines the conditions for being able to present a financial asset and a financial liability and tax assets and tax liabilities for their net amount.</td>
</tr>
<tr>
<td>Items included in the financial statements</td>
<td>The following items are defined: assets, liabilities, equity, income and expenses, which shall be recognized when the probability criteria regarding the inflow or outflow of resources embodying economic benefits are met and their value can be determined reliably. The SNCA defines the concepts of historical cost or cost, fair value, net realizable value, value in use and present value, costs to sell, amortized cost, transaction costs, carrying amount and residual value.</td>
</tr>
</tbody>
</table>
### 4. Conceptual accounting framework and recognition and measurement bases

#### Table 1 (cont.)

**FEATURES OF THE VALUATION RULES IN FORCE SINCE 2008**

<table>
<thead>
<tr>
<th>Area</th>
<th>Spanish national chart of accounts (SNCA)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CONCEPTUAL ACCOUNTING FRAMEWORK</strong></td>
<td></td>
</tr>
<tr>
<td><strong>PREPARATION OF FINANCIAL STATEMENTS</strong></td>
<td></td>
</tr>
<tr>
<td>Comparative information</td>
<td>The balance sheet, income statement, statement of changes in equity and cash flow statement must disclose the figures for the preceding period. The quantitative information in the notes must also refer to the preceding period.</td>
</tr>
<tr>
<td>Income statement format</td>
<td>The SNCA provides a model using a defined and obligatory vertical format. Companies that do not have a given volume of assets, amount of revenue and number of employees may opt for an abridged model.</td>
</tr>
<tr>
<td>Classification of expenses in the income statement</td>
<td>Classified on the basis of their nature.</td>
</tr>
<tr>
<td>Current/Non-current distinction in the balance sheet</td>
<td>Obligatory distinction in the balance sheet between current and non-current items.</td>
</tr>
<tr>
<td>Presentation, functional and foreign currencies</td>
<td>Presentation, functional and foreign currencies are defined in a similar way to EU-IFRSs.</td>
</tr>
<tr>
<td>Exchange differences – Non-monetary items at fair value</td>
<td>Exchange differences are recognized in equity or in profit or loss depending on where the changes in value of the item concerned are recognized.</td>
</tr>
<tr>
<td>Exchange differences – Monetary items</td>
<td>Exchange gains and losses are recognized in profit or loss for the year in which they arise.</td>
</tr>
<tr>
<td>Hyperinflationary economies</td>
<td>The SNCA lists circumstances that are indicative of high levels of inflation. It refers entities to the Rules for the Preparation of Consolidated Financial Statements, which implement the Commercial Code, for the applicable accounting treatment.</td>
</tr>
<tr>
<td><strong>RECOGNITION AND MEASUREMENT BASES INTANGIBLE ASSETS, PROPERTY, PLANT AND EQUIPMENT AND INVESTMENT PROPERTY</strong></td>
<td></td>
</tr>
<tr>
<td>Property, plant and equipment</td>
<td>Tangible items held for use on a lasting basis in the production or supply of goods or services or for administrative purposes.</td>
</tr>
<tr>
<td>Intangible assets</td>
<td>Identifiable non-monetary asset without physical substance.</td>
</tr>
<tr>
<td>Investment property</td>
<td>Non-current property held to earn rentals or for capital appreciation or both.</td>
</tr>
<tr>
<td>Costs of dismantling, removing or restoring assets</td>
<td>The initial estimate of the present value of the obligations to dismantle, remove or restore an asset shall be included in its cost.</td>
</tr>
</tbody>
</table>
## 4. Conceptual accounting framework and recognition and measurement bases

### Table 1 (cont.)

#### FEATURES OF THE VALUATION RULES IN FORCE SINCE 2008

<table>
<thead>
<tr>
<th>Area</th>
<th>Spanish national chart of accounts (SNCA)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Capitalization of borrowing costs</strong></td>
<td>Certain borrowing costs must be capitalized in the case of non-current assets that will take more than one year to be ready for their intended use. As a general rule, interest can only be capitalized before the asset has been brought into use.</td>
</tr>
<tr>
<td><strong>Asset swaps</strong></td>
<td>Swaps with a commercial substance. The asset received is recognized at the fair value of the asset given up plus the monetary amounts delivered as consideration, unless there is clearer evidence of the fair value of the asset received and up to the limit of the latter value. In swaps without commercial substance or in those in which fair value cannot be reliably measured, the asset received is measured at the carrying amount of the asset given up plus the monetary amounts delivered as consideration, up to the limit, if available, of the fair value of the asset received if this value is lower.</td>
</tr>
<tr>
<td><strong>Non-monetary capital contributions</strong></td>
<td>The assets received are measured at their fair value at the date of contribution, unless it may be treated as a swap without commercial substance. There are specific rules if the contribution consist directly or indirectly on a business. For the contributor, the rules relating to financial instruments shall apply.</td>
</tr>
<tr>
<td><strong>Impairment losses</strong></td>
<td>Impairment losses arise when the carrying amount of an asset exceeds its recoverable amount. Impairment losses are recognized and reversed through profit or loss.</td>
</tr>
<tr>
<td><strong>Major repairs to property, plant and equipment</strong></td>
<td>The effect of costs of major repairs is taken into account when determining the carrying amount of property, plant and equipment. These costs are amortized over the period remaining until the repair is made. When the repair is made, its cost is recognized as a replacement if the related recognition criteria are met.</td>
</tr>
<tr>
<td><strong>Research and development expenditure</strong></td>
<td>Research expenditure. Period expense, although it may be capitalized in certain circumstances. Development expenditure. Capitalized when the conditions established for the capitalization of research expenditure are met.</td>
</tr>
<tr>
<td><strong>Start-up costs</strong></td>
<td>Period expense</td>
</tr>
</tbody>
</table>

#### INVENTORIES AND NON-CURRENT ASSETS CLASSIFIED AS HELD FOR SALE

**INVENTORIES**

**Definition**

Refers expressly to inventories in the rendering of services.

**Trade and financial discounts**

Trade discounts, rebates and other similar directly attributable items are deducted in determining the costs of purchase.

**Borrowing costs**

Borrowing costs are included in the acquisition or production cost of inventories that necessarily take more than one year to get ready for their sale.

**NON-CURRENT ASSETS (DISPOSAL GROUPS) CLASSIFIED AS HELD FOR SALE**

**Non-current assets classified as held for sale**

A non-current asset is classified as held for sale if its carrying amount will be recovered largely through a sale transaction rather than through continuing use.
4. Conceptual accounting framework and recognition and measurement bases

**Table 1 (cont.)**

### FEATURES OF THE VALUATION RULES IN FORCE SINCE 2008

<table>
<thead>
<tr>
<th>Area</th>
<th>Spanish national chart of accounts (SNCA)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>INCOME TAX</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Consideration of temporary differences</strong></td>
<td>These are differences arising from the different values for accounting and tax purposes attributed to assets, liabilities and certain equity instruments, to the extent that they have a bearing on the tax charge. Temporary differences include, but are not limited to, timing differences. Based on the balance sheet method.</td>
</tr>
</tbody>
</table>

**LONG TERM EMPLOYEE BENEFITS AND PROVISIONS**

| Classification of pension plans for the purposes of their accounting treatment | Draws a distinction between long-term defined contribution plans and long-term defined benefit plans. |

**PROVISIONS**

| Measurement | Present value of the best possible estimate of the expenditures required to settle or transfer the obligation, recognizing the adjustments arising from their discounting as a finance cost as incurred. In the case of provisions maturing at one year or less, no discounting is required, provided that the effect of the time value of money is not material. |

**FINANCIAL INSTRUMENTS**

| Loans and receivables – Initial recognition and subsequent measurement | Loans and receivables are initially recognized at fair value plus directly attributable transaction costs. They are subsequently measured at amortized cost using the effective interest method. |
| Marketable securities (other than investments in Group companies and jointly controlled entities) | These items are initially recognized at the fair value of the consideration paid plus, in the case of held-to-maturity investments and available-for-sale financial assets, the directly attributable transaction costs. They are subsequently measured at fair value, except for held-to-maturity investments, which are measured at amortized cost using the effective interest method. Investments whose fair values cannot be determined reliably are measured at cost minus valuation adjustments. Changes in the fair value are recognized in profit or loss, except in the case of available-for-sale financial assets, changes in the fair value of which are recognized in equity until the asset is disposed of or it is determined that it has become impaired. |
| Investments in Group companies, jointly controlled entities and associates | Initially recognized at cost and subsequently measured at cost less any accumulated impairment losses. Valuation adjustments are made for the difference between the carrying amount and the recoverable amount (i.e. the higher of fair value less costs to sell and the present value of the cash flows). Unless there is better evidence of the recoverable amount, when estimating the impairment an entity shall take into account the equity of the investee adjusted by the unrealized gains existing at the balance sheet date that relate to identifiable items in the balance sheet of the investee. |
### Table 1 (cont.)

**FEATURES OF THE VALUATION RULES IN FORCE SINCE 2008**

<table>
<thead>
<tr>
<th>Area</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Held-to-maturity investments - Impairment</strong></td>
<td>Difference between the carrying amount and the present value of the discounted cash flows or market value of the instrument.</td>
</tr>
<tr>
<td><strong>Available-for-sale financial assets – Impairment</strong></td>
<td>Difference between cost or amortized cost minus valuation adjustments recognized previously in profit or loss and the fair value at the measurement date. In the case of investments in equity instruments measured at cost because their fair value cannot be determined reliably, the provisions concerning the impairment of investments in Group companies, jointly controlled entities and associates shall apply.</td>
</tr>
<tr>
<td><strong>Financial liabilities held for trading and other financial liabilities at fair value through profit or loss</strong></td>
<td>Initial recognition: fair value. Subsequent measurement: fair value without deducting costs to sell. Changes in fair value are recognized in profit or loss.</td>
</tr>
<tr>
<td><strong>Transactions involving equity instruments</strong></td>
<td>Recognized in equity as a change therein, and in no case may they be recognized as financial assets.</td>
</tr>
<tr>
<td><strong>Gains and losses on transactions involving equity instruments</strong></td>
<td>No gain or loss may be recognized in the income statement.</td>
</tr>
<tr>
<td><strong>Compound financial instruments</strong></td>
<td>Their components of liability and equity are recognized, measured and presented separately.</td>
</tr>
<tr>
<td><strong>Derivatives</strong></td>
<td><em>Initial recognition:</em> fair value. <em>Subsequent measurement:</em> fair value without deducting costs to sell. Changes in fair value are recognized in profit or loss. Some specific rules apply to some financial instruments designated as hedged items.</td>
</tr>
<tr>
<td><strong>Preference shares</strong></td>
<td>Not expressly addressed. They could be considered as a liability from an accounting point of view.</td>
</tr>
<tr>
<td><strong>Participating loans</strong></td>
<td>Does not address participating loans.</td>
</tr>
</tbody>
</table>

### BUSINESS COMBINATIONS

**General consideration of business combinations**  
Mergers or spin-offs or business combinations arising from the acquisition of all the assets and liabilities of a company or of a part of a company that constitutes one or more businesses are accounted for using the purchase method. Acquisitions of shares, including those received through non-monetary contributions in the formation of a company, or other transactions resulting in the acquisition of control without any investment being made are governed by the rules for measuring financial instruments.

**Business combinations between Group companies**  
In mergers between group companies in which the parent and a directly —or indirectly— owned subsidiary participate, the businesses acquired are measured at the amount attributed to them, after the transaction, in the consolidated financial statements of the group or subgroup. In the case of mergers between other group companies, where there is no parent/subsidiary relationship between them, the assets and liabilities of the business are measured at the amounts at which they had been carried prior to the transaction in the individual financial statements, and any difference that may be disclosed must be recognized in a reserves account. In spin-offs involving companies in the same group, criteria equivalent to those applied to mergers must be followed.
### 4. Conceptual accounting framework and recognition and measurement bases

#### Table 1 (cont.)

**FEATURES OF THE VALUATION RULES IN FORCE SINCE 2008**

<table>
<thead>
<tr>
<th>Area</th>
<th>Spanish national chart of accounts (SNCA)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Negative difference arising on business combinations</strong></td>
<td>If, exceptionally, the value of the identifiable net assets acquired exceeds the cost of the business combination, such excess shall be recognized as income in the income statement, with some exceptions.</td>
</tr>
<tr>
<td><strong>Goodwill arising on business combinations</strong></td>
<td>Initially measured as the difference between the cost of the business combination and the value of the identifiable assets acquired less the amount of the liabilities assumed, including contingent liabilities. Goodwill is not amortized and instead must be tested for impairment annually, or more frequently if there are indications that it might be impaired.</td>
</tr>
<tr>
<td><strong>Reverse acquisitions</strong></td>
<td>The rules in the standards for the preparation of consolidated financial statements must be applied.</td>
</tr>
<tr>
<td><strong>Separate transactions</strong></td>
<td>The acquirer must identify separate transactions not forming part of the business combination and recognize them under the required recognition or measurement rule.</td>
</tr>
</tbody>
</table>

### JOINT VENTURES

| Concepts and classification of joint ventures | A joint venture is an economic activity controlled jointly by two or more natural or legal persons. The SNCA distinguishes between jointly controlled operations, jointly controlled assets and jointly controlled entities. |
| Concept of joint control | A by-law established or contractual agreement whereby two or more parties agree to share the power to govern the financial and operating policies of an economic activity so as to obtain economic benefits. |
| Jointly controlled operations and assets | The venturer shall recognize the proportional part of the jointly controlled assets and jointly incurred liabilities and shall recognize in its income statement the assets attributed to the jointly controlled operation controlled by it and the liabilities incurred as a result of the joint venture. Also, it shall recognize its share of the income earned and the expenses incurred by the joint venture, together with the expenses incurred in relation to its interest in the joint venture. |
| Jointly controlled entities | The venturer recognizes its interest in accordance with the rules governing investments in Group companies, jointly controlled entities and associates. |

### SALES OF GOODS AND RENDERING OF SERVICES

| Trade and financial discounts | Revenue is measured at the fair value of the consideration received or receivable, net of discounts and price reductions. |
| Interest included in the face value of receivables | Deducted from the price agreed on, except in the case of trade receivables maturing within no more than one year for which no contractual interest rate has been established, provided that the effect of the time value of money is not material. |
4. Conceptual accounting framework and recognition and measurement bases

Table 1 (cont.)
FEATURES OF THE VALUATION RULES IN FORCE SINCE 2008

<table>
<thead>
<tr>
<th>Area</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Swaps of goods and services</td>
<td>In swaps of goods or services of a similar nature and value in the ordinary course of business no revenue is recognized.</td>
</tr>
<tr>
<td><strong>GRANTS, DONATIONS AND LEGACIES RECEIVED</strong></td>
<td></td>
</tr>
<tr>
<td>Presentation</td>
<td>Repayable grants are recognized as liabilities. In general, non-repayable grants are initially recognized directly in equity and are allocated to profit or loss in proportion to the related expenses.</td>
</tr>
</tbody>
</table>
| Allocation to profit or loss of grants related to assets | Property, plant and equipment, intangible assets and investment property recognized as income over the periods and in the proportions in which depreciation on those assets is charged or, where applicable, when the assets are sold, written down for impairment or derecognized.  
Inventories and financial assets. the year of the sale, valuation adjustment or derecognition. |
| Measurement of non-monetary grants        | Measured at the fair value of the asset received at the date of recognition.                                                                                                                                  |
| Grants provided by shareholders or owners | Must be recognized directly in shareholders’ equity, regardless of the type of grant involved, except for grants received by public-sector companies from the parent public entity for the performance of activities in the public or general interest, which are allocated to profit or loss on the basis of their purpose. |
| **SHARE-BASED PAYMENT**                  |                                                                                                                                                                                                             |
| Concept                                   | Transactions which, in exchange for receiving goods or services, including services provided by employees, are settled using equity instruments of the entity or an amount based on the price of the entity’s equity instruments. |
| Recognition of equity-settled share-based payment transactions | The goods or services received are recognized immediately as an asset or as an expense on the basis of their nature. Also, an increase in equity is recognized.  
When it is necessary to complete a specified period of service, the items will be recognized as the services are rendered over that period. |
| Measurement of equity-settled share-based payment transactions | Measured at the fair value of the goods or services received with a balancing entry in an equity account. If that fair value cannot be estimated reliably, they are measured at the fair value of the equity instruments granted with reference to the date on which the company receives the goods or the other party renders the services.  
Transactions with employees are measured at the fair value of the equity instruments granted at the date on which the resolution to grant them is adopted. |
| Measurement of cash-settled share-based payment transactions | Measured at the fair value of the liability, referring to the date on which the requirements for recognition are met with a balancing entry in a liability account. Until the liability is settled, the entity shall remeasure its fair value at each reporting date, with any changes in fair value recognized in profit or loss. |
4. Conceptual accounting framework and recognition and measurement bases

<table>
<thead>
<tr>
<th>Area</th>
<th>Spanish national chart of accounts (SNCA)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>DISCONTINUED OPERATIONS</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Concept</strong></td>
<td>This is a component of an entity that either has been disposed of, or is classified as held for sale and</td>
</tr>
<tr>
<td></td>
<td>represents a separate major line of business or geographical area of operations, is part of a plan to</td>
</tr>
<tr>
<td></td>
<td>dispose of a separate major line of business or geographical area of operations or is a subsidiary</td>
</tr>
<tr>
<td></td>
<td>acquired exclusively with a view to resale.</td>
</tr>
<tr>
<td><strong>INTRAGROUP TRANSACTIONS</strong></td>
<td></td>
</tr>
<tr>
<td><strong>General rule</strong></td>
<td>The items in an intragroup transaction must be recognized at their fair value.</td>
</tr>
<tr>
<td><strong>Special rules</strong></td>
<td>These special rules are only applicable when the items in the transaction are a business and there is</td>
</tr>
<tr>
<td></td>
<td>no monetary consideration:</td>
</tr>
<tr>
<td></td>
<td>1. Contributions in kind: measurement in consolidated financial statements (or individual statements</td>
</tr>
<tr>
<td></td>
<td>if no consolidation statements are formulated).</td>
</tr>
<tr>
<td></td>
<td>2. Mergers and spin-off: measurement:</td>
</tr>
<tr>
<td></td>
<td>• if there is a parent/subsidiary relationship between them the value that should be considered in</td>
</tr>
<tr>
<td></td>
<td>the consolidated financial statements is used;</td>
</tr>
<tr>
<td></td>
<td>• if that parent/subsidiary relationship does not exist the value in the consolidated financial</td>
</tr>
<tr>
<td></td>
<td>statements is used also (or individual statements if no consolidation statements are formulated)</td>
</tr>
<tr>
<td></td>
<td>The effective date for accounting purposes will be the date of the commencement of the fiscal year in</td>
</tr>
<tr>
<td></td>
<td>which the merger is approved provided it falls after the date on which the companies became part of the</td>
</tr>
<tr>
<td></td>
<td>group.</td>
</tr>
<tr>
<td></td>
<td>3. Capital reduction, distribution of dividends and dissolution of companies.</td>
</tr>
</tbody>
</table>

In this connection it should be noted that the Spanish National Chart of Accounts came into force on January 1, 2008, and was applied for the first time in the first reporting period that commenced on or after that date.  

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2 As regards such first-time application, Royal Decree 1514/2007, of November 16, approving the Spanish National Chart of Accounts, establishes a transitional regime so that companies may adapt thereto by preparing a corresponding opening balance sheet (Transitional Provisions One to Six). The regime also has implications in the aforementioned measurement bases in this connection.
5. Distributable profit

5. DISTRIBUTABLE PROFIT

In the context of the accounting legislation reform process described above, the rules for distributing company profit contained in Article 273 of the Revised Corporate Enterprises Law have been amended, and, in general terms, currently provide that:

• The profit taken directly to equity may not be distributed either directly or indirectly.

• Any distribution of profit is prohibited unless the amount of unrestricted reserves is at least equal to the amount of research and development expenditure that appears on the asset side of the balance sheet.

• The Article establishes that a restricted reserve equal to the goodwill recognized on the asset side of the balance sheet must be set up, earmarking for this purpose a percentage of profit that represents at least 5% per year of the aforementioned goodwill and, in the absence of profit or any insufficiency thereof, it provides that unrestricted reserves must be used.
6. Consolidation

6. CONSOLIDATION

As mentioned above, within the process of adapting Spanish accounting legislation to EU law, Royal Decree 1159/2010, of September 17, approved the Standards for the Preparation of Consolidated Financial Statements.

The most important aspects ruled by that Royal Decree in this sphere are as follows:

• It widens the definition of “control” meaning the power to steer the financial and operating policies of an entity with the aim to obtain profits from its activities.

• Companies are exempted from the obligation to consolidate where the parent only has investments in subsidiaries that do not have a significant interest, individually or as a whole, to present fairly the equity, financial position and results of the group companies.

• It sets out the rules for recognizing eliminations of investments and net equity in cases of (i) inclusion of companies that constitute a business, (ii) consolidation of a company that does not constitute a business, and (iii) consolidation among companies that were already part of the group.

• It lays down new rules for the conversion of financial statements in foreign currency.

• It contains more detailed rules on income tax expense.

• It amends the new Spanish National Chart of Accounts and the Spanish National Chart of Accounts for Small and Medium-Sized Enterprises, in relation to the recognition of business combinations, financial instruments and income taxes.

This Royal Decree applies to separate and consolidated financial statements for financial years beginning on or after January 1, 2010.
7. Requirements concerning disclosures in the notes to the financial statements

7. REQUIREMENTS CONCERNING DISCLOSURES IN THE NOTES TO THE FINANCIAL STATEMENTS

The Spanish Commercial Code states that the notes to the financial statements must complete, expand upon and discuss the contents of the other documents that make up the financial statements.

The minimum disclosure requirements are specified in the very wording of the Revised Spanish Corporate Enterprises Law, in the Spanish National Chart of Accounts, and in the Standards for the Preparation of Consolidated Financial Statements, all of which indicate that the notes to the financial statements form an integral part of the financial statements.

In response to the relative importance that the principle of fair presentation has in accounting legislation, there is a large number of disclosures to be included in the notes to the financial statements. Among other disclosures, the notes to the separate financial statements must at least contain, in addition to the disclosures specifically provided for in the Commercial Code, the Corporate Enterprises Law and the related implementing legislation, the following information:

- The measurement bases applied to the various items in the financial statements and the methods used for calculating valuation adjustments.

- The name, registered office and legal form of the companies of which the company is a general partner or in which it holds, directly or indirectly, an ownership interest of not less 20%, or in which, even if this percentage is lower, it exercises significant influence.

- The percentage of ownership of the share capital and the percentage of voting power held must be indicated, together with the amount of the equity in the investee’s last business year.

- Where there are several classes of shares, the number and par value of each class.

- The existence of “rights” bonds, convertible debentures and similar securities or rights, indicating the number of each and the scope of the rights that they confer.

- The amount of the company’s borrowings with a residual life of more than five years, and the amount of all the liabilities for which there is a security interest, indicating their form and nature. These disclosures must be shown separately for each liability item.

- The overall amount of the guarantee commitments to third parties, without prejudice to their recognition on the liability side of the balance sheet when it is probable that they will give rise to the effective settlement of an obligation.

- The pension obligations and those relating to group companies must be disclosed with due clarity and separation.
7. Requirements concerning disclosures in the notes to the financial statements

- The nature and business substance of the company’s agreements that are not included in the balance sheet and the financial impact thereof, provided that this information is relevant and necessary for determining the company’s financial position.

- The company’s significant transactions with related third parties, indicating the nature of the relatedness, the amount of the transactions and any other information concerning the transactions that might be required in order to determine the company’s financial position.

- The distribution of the company’s revenue by line of business and geographical market, to the extent that, from the standpoint of the organization of the sale of goods and of the rendering of services or other revenue of the company, these categories and markets differ significantly from each other. These disclosures may be omitted by companies that can prepare abridged income statements.

- The average number of employees in the reporting period, broken down by category, and the period staff costs, distinguishing between wages and salaries and employee benefits, with separate disclosure of those covering pensions, when such amounts are not broken down in the income statement.

- The amount of the salaries, attendance fees and remuneration of all kinds earned during the year in all connections by senior executives and the members of the managing body, and the amount of the pension or life insurance premium payment obligations to the former and current members of the managing body and senior executives. Where the members of the managing body are legal persons, the aforementioned requirements refer to the natural persons representing them. These disclosures can be made on an overall basis by type of remuneration.

- The amount of the advances and loans to senior executives and members of the governing bodies, indicating the applicable interest rate, their essential features and such amounts as might have been repaid, together with the guarantee obligations assumed on their behalf. Where the members of the managing body are legal persons, the aforementioned requirements refer to the natural persons representing them.

- Companies which have issued securities that are publicly traded on a regulated market of any EU Member State and which, pursuant to current legislation, only publish individual financial statements, are obliged to disclose in the notes to the financial statements the main changes in equity and profit or loss that would have arisen had EU-IFRSs been applied, indicating the measurement bases used.

- A breakdown of the fees for financial audit and other services provided by the auditors, together with those paid to persons or entities related to the auditors, in accordance with Spanish Audit Law 19/1988, of July 12, 1988.
7. Requirements concerning disclosures in the notes to the financial statements

- The group, if any, to which the company belongs and the Mercantile Registry at which the consolidated financial statements have been filed or, where applicable, the circumstances relieving the group from the obligation of presenting consolidated financial statements.

- When the company has the largest volume of assets from among the group of companies domiciled in Spain forming part of the same decision-making unit, because they are controlled in any way by one or several natural or legal persons not obliged to consolidate acting jointly, or because they are under single management due to agreements or clauses in the bylaws, a description of the companies must be given, indicating the reasons why they form part of the same decision-making unit, and the aggregate amount of the assets, liabilities, equity, revenue and profit or loss of those companies must be disclosed.

The company with the largest volume of assets is considered to be that which at the date of its inclusion in the decision-making unit has the largest figure under the total assets heading in the balance sheet model.

- According to the Resolution of the Accounting and Audit Institute, of December 29, 2010, the notes to the financial statements must contain information on deferred payments to suppliers in commercial transactions.
8. Auditing requirements

8. AUDITING REQUIREMENTS

A law aimed at adapting Spanish law to Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts was approved: Law 12/2010, of June 30, amending Spanish Audit Law 19/1988, of July 12, Spanish Securities Market Law 24/1988, of July 28, and the revised Spanish Corporations Law approved by Legislative Royal Decree 1564/1989, of December 22, to adapt them to Community legislation, and which, in its Final Provision No. 2 authorized the Government to prepare a recasting of the legal provisions referring to the audit activity. That recasting has been done through the approval, by Legislation Royal Decree 1/2011, of July 1, of the Revised Audit Law, and of its implementing Regulations by Royal Decree 1517/2011, of October 31.

The main amendments, with respect to the legislation established previously in Law 19/1988, are the following:

• It adapts the Spanish Audit Law to the changes that have taken place in Spanish corporate/commercial and accounting law in recent years.

• It amends the liability system for auditors, who must assume full liability in relation to consolidated financial statements or accounting documents, meaning that their liability cannot be restricted to the group companies that had been audited by them.

• It specifies the system of legal sources that must be used in performing the audit, which will be (i) audit standards, (ii) ethics rules, and (iii) the rules governing the internal quality assurance system of auditors and audit firms. With respect to audit standards, it introduces the international audit standards that will be adopted by the European Commission, and keeps the Spanish audit standards in force until those international standards are adopted.

• It reduces the public disclosure period for audit standards before they are published by the Accounting and Audit Institute from six to two months.

• It amends the regulations on the Official Auditors’ Register, on which anyone who is authorized to perform audits must be registered. Audits can be performed by persons authorized in another EU Member State and by auditors from other countries who are registered. It describes the public information that the Register must contain on the auditors and audit firms, and envisages electronic access to the Register. It makes registration in the Official Auditors’ Register compulsory for auditors and audit firms who issue auditor’s reports in relation to the financial statements of certain companies domiciled outside the European Union, whose shares are admitted for trading in Spain.

• It reinforces the duties of independence and secrecy that must be observed by auditors in performing audits. In this regard, the Audit Regulations clarify the set of actions that must be performed by auditors in the observance of their duty of independence, and delimit the causes
8. Auditing requirements

which lead to incompatibility for them. Moreover, the duty of secrecy extends to anyone taking part in the performance of audits.

- It amends the infringement and penalty rules in the Law, defines new infringements, amends the definition of certain acts constituting an infringement, and makes the resulting corrections to the penalty system.

- It sets up the organization of an effective system of public supervision conferred exclusively on the Spanish Audit and Accounting Institute in which (i) the set of parties on which the Spanish Audit and Accounting Institute can obtain information and carry out inspection and investigation activities is extended; and (ii) paves the way for effective Community-wide cooperation among the supervision activities of the Member States with the aim of securing high and uniform quality in audits in the European Union.

- It provides for a mechanism to shift administrative liability, to secure the enforcement of administrative liability that has been or could be held to exist in relation to scenarios where changes are made to companies with the aim to extinguish that liability.

- It defines the entities that are classified as “public interest entities” by reason of their special activity or size, whose auditors are subject to a series of obligations or controls which are stricter than in the rest of cases due to the greater economic relevance of the reports they issue. This classification includes entities that are subject to supervision by the Bank of Spain, the National Securities Market Commission and the Directorate-General of Insurance and Pension Funds, due to the need to protect the client or investor and because they are authorized to raise funds from the public or to perform certain sales and investment activities. This includes collective investment vehicles and pension funds with a certain number of members. It also includes entities that have more than €200 million in assets or 1,000 employees.

Currently, in relation to the entities that must be audited, Additional Provision One of the Spanish Audit Law makes it obligatory for the financial statements of all companies and entities, regardless of their legal form, in any of the circumstances listed below to be audited.

- Entities publicly traded on a Spanish Stock Market.

- Entities issuing debentures for sale to the public.

- Entities engaging habitually in financial intermediation activities, including those acting as stock brokers and commission agents (even when they operate as natural persons), and all financing companies and entities obliged to register themselves in the related Ministry of Economy and Finance and Bank of Spain registers.

- Entities whose company object includes any of the activities regulated by the Spanish Private Insurance Law, within the limits provided for in the relevant implementing regulations.
8. Auditing requirements

- Entities that receive government grants from the state or public agencies or that perform work, render services or supply goods thereto, within the limits provided for in the relevant implementing regulations.

- The consolidated financial statements regardless of whether or not the separate financial statements are audited.

- Companies, including cooperatives and other entities that exceed certain limits defined by the government.

The limits referred to in the preceding paragraph relate to those established for the purposes of preparing an abridged balance sheet by the Revised Corporate Enterprises Law.

It is established in this respect that companies that are within at least two of the following thresholds for two consecutive years prior to the balance sheet date may present an abridged balance sheet:

- Total assets of €2,850,000 or less.

- Annual revenue of €5,700,000 or less.

- Average number of employees during the year of 50 or fewer.
9. Financial statement publication requirements

9. FINANCIAL STATEMENT PUBLICATION REQUIREMENTS

The Revised Spanish Corporate Enterprises Law provides that companies must file their financial statements at the Mercantile Registry corresponding to the place in which they have their registered office, within one month from their approval, together with a certificate of the resolutions adopted by the shareholders at the Annual General Meeting at which they were approved and the proposed distribution of profit, copies of the financial statements, directors’ report and auditors’ report (if the company is obliged to have its financial statements audited or if its financial statements were audited at the request of the minority shareholders).

The Mercantile Registry is public and the corporate documentation filed thereat is publicized through certificates of the entries made by the registrars or through an uncertified extract, or through the issuance of copies of the entries made and of the documents filed at the Registry, all in accordance with the Spanish Commercial Code.

Also, publicly-traded companies must (pursuant to Securities Market Law 24/1988) present copies of their financial statements and of the related auditors’ report to the Spanish National Securities Market Commission.

The official registers and other documentation in the possession of the Mercantile Registry and the Spanish National Securities Market Commission are available to the public for their perusal.
## Appendix I

**Standard forms for financial statements. Balance sheet at year-end 200X**

### A) Non-current assets

#### I. Intangible assets

<table>
<thead>
<tr>
<th>Account Nos.</th>
<th>Assets</th>
<th>Notes</th>
<th>200X</th>
<th>200X</th>
</tr>
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<tbody>
<tr>
<td>201, (2801), (2901)</td>
<td>Research and development</td>
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<tr>
<td>202, (2802), (2902)</td>
<td>Concessions</td>
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<tr>
<td>203, (2803), (2903)</td>
<td>Patents, licenses, trademarks and similar assets</td>
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<tr>
<td>204</td>
<td>Goodwill</td>
<td>4.</td>
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<td></td>
</tr>
<tr>
<td>206, (2806), (2906)</td>
<td>Computer software</td>
<td>5.</td>
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</tr>
<tr>
<td>200, (2800), (2900); FS preparation rule 6.4</td>
<td>Research</td>
<td>6.</td>
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<tr>
<td>205, 209, (2805), (2905)</td>
<td>Other intangible assets</td>
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#### II. Property, plant and equipment

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<tr>
<th>Account Nos.</th>
<th>Assets</th>
<th>Notes</th>
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<th>200X</th>
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<tbody>
<tr>
<td>210, 211, (2811), (2910), (2911)</td>
<td>Land and buildings</td>
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<td></td>
<td></td>
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<tr>
<td>215, 216, 217, 218, 219, (2812), (2813), (2814), (2815), (2816), (2817), (2818), (2819), (2912), (2913), (2914), (2915), (2916), (2917), (2918), (2919)</td>
<td>Plant and other tangible fixed assets</td>
<td>2.</td>
<td></td>
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<tr>
<td>23</td>
<td>Fixed assets under construction and advances</td>
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</table>

#### III. Investments in fixed assets

<table>
<thead>
<tr>
<th>Account Nos.</th>
<th>Assets</th>
<th>Notes</th>
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<tr>
<td>220, (2920)</td>
<td>Land</td>
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<tr>
<td>221, (282) (2921)</td>
<td>Buildings</td>
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#### IV. Long-term investments in group companies and associates

<table>
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<td>2423, 2424, (2953), (2954)</td>
<td>Loans to companies</td>
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</tr>
<tr>
<td>2413, 2414, (2943), (2944)</td>
<td>Debt securities</td>
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</tr>
<tr>
<td></td>
<td>Derivatives</td>
<td>4.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other financial assets</td>
<td>5.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other investments</td>
<td>6.</td>
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#### V. Investments

<table>
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</thead>
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<td>Equity instruments</td>
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<td>2425, 252, 253, 254, (2955), (298)</td>
<td>Loans to third parties</td>
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<td>2415, 251, (2945) (297)</td>
<td>Debt securities</td>
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<tr>
<td>255</td>
<td>Derivatives</td>
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<tr>
<td>258, 26</td>
<td>Other financial assets</td>
<td>5.</td>
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<tr>
<td>257; FS preparation rule 6.6</td>
<td>Other investments</td>
<td>6.</td>
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#### VI. Deferred tax assets

<table>
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#### VII. Non-current trade accounts receivable

<table>
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<tr>
<th>Account Nos.</th>
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<th>200X</th>
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</thead>
<tbody>
<tr>
<td></td>
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<td></td>
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</tr>
</tbody>
</table>
### B) CURRENT ASSETS

#### I. Non-current assets held for sale

#### II. Inventories

1. Merchandise
2. Raw materials and other supplies
3. Work in process
   a) Long production cycle
   b) Short production cycle
4. Finished goods
   a) Long production cycle
   b) Short production cycle
5. Secondary products, by-products and recovered materials
6. Advances to suppliers

#### III. Trade and other accounts receivables

1. Trade accounts receivable
   a) Long-term trade accounts receivable
   b) Short-term trade accounts receivable
2. Receivable from customers, group companies and associates
3. Sundry receivables
4. Loans and advances to employees
5. Tax receivable
6. Other tax receivable
7. Called-up share capital (participation units)

#### IV. Short-term investments in group companies and associates

1. Equity instruments
2. Loans to companies
3. Debt securities
4. Derivatives
5. Other financial assets
6. Other investments

<table>
<thead>
<tr>
<th>ACCOUNT NOS.</th>
<th>ASSETS</th>
<th>NOTES</th>
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<th>200X</th>
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<td>FS preparation rule 6.7</td>
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<tr>
<td>FS preparation rule 6.7</td>
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<td>35, (395)</td>
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<td>FS preparation rule 6.7</td>
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<td>430, 431, 432, 435, 436, (437), (490), (4935)</td>
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<td>433, 434, (4933), (4934)</td>
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<td>44, 5531, 5533</td>
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<tr>
<td>460, 544</td>
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<td>4709</td>
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<td>4700, 4708, 471, 472</td>
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<td>5580</td>
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<td>5303, 5304, (5393), (5394), (593)</td>
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<td>5323, 5324, 5343, 5344, (5953), (5954)</td>
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<tr>
<td>5353, 5354, 5523, 5524</td>
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<td></td>
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<tr>
<td>FS preparation rule 6.6</td>
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</tbody>
</table>
### Appendix I (cont.)

**STANDARD FORMS FOR FINANCIAL STATEMENTS. BALANCE SHEET AT YEAR-END 200X**

<table>
<thead>
<tr>
<th>ACCOUNT NOS.</th>
<th>ASSETS</th>
<th>NOTES</th>
<th>200X</th>
<th>200X</th>
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</thead>
<tbody>
<tr>
<td>V. Short-term investments</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| 5305, 540, (5395), (549) | | | | | 1. Equity instruments
| 5325, 5345, 542, 543, 547, (5955), (598) | | | | | 2. Loans to companies
| 5315, 5335, 541, 546, (5945), (597) | | | | | 3. Debt securities
| 5590, 5593 | | | | | 4. Derivatives
| 5355, 545, 548, 551, 5525, 565, 566 | | | | | 5. Other financial assets
| FS preparation rule 6.6 | | | | | 6. Other investments
| 480, 567 | | | | | |
| VI. Current prepayments and accrued income | | | | |
| VII. Cash and cash equivalents | | | | |
| 570, 571, 572, 573, 574, 575 | | | | | 1. Cash
| 576 | | | | | 2. Cash equivalents
| | | | | | TOTAL ASSETS (A+B) |
## Standard forms for financial statements. Balance sheet at year-end 200X

### A) EQUITY

#### A-1) Capital and Reserves

<table>
<thead>
<tr>
<th>Account Nos.</th>
<th>Equity and Liabilities</th>
<th>Notes</th>
<th>200X</th>
<th>2000X-1</th>
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</thead>
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<td>100, 101, 102</td>
<td>I. Capital</td>
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<td>(1030), (1040)</td>
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<tr>
<td>110</td>
<td></td>
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</tr>
<tr>
<td>112, 1141</td>
<td>II. Additional paid-in capital</td>
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<td></td>
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</tr>
<tr>
<td>113, 1140, 1142, 1143, 1144, 115, 119 (108), (109)</td>
<td>III. Reserves</td>
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<td></td>
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<tr>
<td>120</td>
<td>IV. (Own shares and participation units held)</td>
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<td></td>
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</tr>
<tr>
<td>(121)</td>
<td>V. Retained earnings (accumulated losses)</td>
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<td></td>
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<tr>
<td>118</td>
<td>VI. Other capital contributions</td>
<td></td>
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<td></td>
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<tr>
<td>129</td>
<td>VII. Profit (loss) for the year</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>(557)</td>
<td>VIII. (Interim dividend)</td>
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<tr>
<td>111</td>
<td>IX. Other equity instruments</td>
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#### A-2) Revaluation adjustments

<table>
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<tr>
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<th>Notes</th>
<th>200X</th>
<th>2000X-1</th>
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</thead>
<tbody>
<tr>
<td>133</td>
<td>I. Available-for-sale financial assets</td>
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<td>1340, 1341</td>
<td>II. Hedging transactions</td>
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<tr>
<td>136; (FS preparation rule 6.13)</td>
<td>III. Non-current assets and related liabilities, held for sale</td>
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</tr>
<tr>
<td>135; (FS preparation rule 6.13)</td>
<td>IV. Translation gain/loss</td>
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</tr>
<tr>
<td>137</td>
<td>V. Other</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>130, 131, 132</td>
<td>A-3) Subsidies, donations and legacies received</td>
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</table>

### B) NON-CURRENT LIABILITIES

<table>
<thead>
<tr>
<th>Account Nos.</th>
<th>Equity and Liabilities</th>
<th>Notes</th>
<th>200X</th>
<th>2000X-1</th>
</tr>
</thead>
<tbody>
<tr>
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<td>I. Long-term provisions</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>145</td>
<td>1. Long-term post-employment obligations</td>
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</tr>
<tr>
<td>146</td>
<td>2. Environmental measures</td>
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<tr>
<td>141, 142, 143, 147</td>
<td>3. Provisions for restructuring</td>
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<tr>
<td>177, 178, 179</td>
<td>4. Other provisions</td>
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<tr>
<td>1605, 170</td>
<td>II. Long-term debts</td>
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<tr>
<td>1625, 174</td>
<td>1. Debt securities and other marketable securities</td>
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<tr>
<td>176</td>
<td>2. Liabilities to credit institutions</td>
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<tr>
<td>1615, 1635, 171, 172, 173, 175, 180, 185, 189</td>
<td>3. Finance lease liabilities</td>
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<tr>
<td></td>
<td>4. Derivatives</td>
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<tr>
<td></td>
<td>5. Other financial liabilities</td>
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<td></td>
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</tbody>
</table>
## Appendix I
Standard forms for financial statements. Balance sheet at year-end 200X

### STANDARD FORMS FOR FINANCIAL STATEMENTS. BALANCE SHEET AT YEAR-END 200X

<table>
<thead>
<tr>
<th>ACCOUNT NOS.</th>
<th>EQUITY AND LIABILITIES</th>
<th>NOTES</th>
<th>200X</th>
<th>200X-1</th>
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<tbody>
<tr>
<td>1603, 1604, 1613, 1614, 1623, 1624, 1633, 1634</td>
<td>III. Long-term debts to group companies and associates</td>
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<td></td>
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</tr>
<tr>
<td>479</td>
<td>IV. Deferred tax liabilities</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>181</td>
<td>V. Non-current accrued expenses and deferred income</td>
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<tr>
<td>FS preparation rule 6.16</td>
<td>VI. Non-current trade accounts payable</td>
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<tr>
<td>15; FS preparation rule 6.17</td>
<td>VII. Long-term debt with special characteristics</td>
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### C) CURRENT LIABILITIES

<table>
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<th>EQUITY AND LIABILITIES</th>
<th>NOTES</th>
<th>200X</th>
<th>200X-1</th>
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<tbody>
<tr>
<td>585, 586, 587, 588, 589</td>
<td>I. Liabilities related to non-current assets held for sale</td>
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<tr>
<td>499, 529</td>
<td>II. Current provisions</td>
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</tr>
<tr>
<td>500, 501, 505, 506</td>
<td>III. Current liabilities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5105, 520, 527</td>
<td>1. Debt securities and other marketable securities</td>
<td></td>
<td></td>
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<tr>
<td>5125, 524</td>
<td>2. Liabilities to credit institutions</td>
<td></td>
<td></td>
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<tr>
<td>5595, 5598</td>
<td>3. Finance lease liabilities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1034) (1044) (190), (192), 194, 509, 5115, 5135, 5145, 521, 522, 523, 525, 526, 528, 551, 5525, 5530, 5532, 555, 5565, 5566, 560, 561, 569</td>
<td>4. Derivatives</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>5103, 5104, 5113, 5114, 5123, 6124, 5133, 5134, 5143, 5144, 5523, 5524, 5563, 5564</td>
<td>5. Other financial liabilities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>400, 401, 405, (406)</td>
<td>IV. Current liabilities to group companies and associates</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FS preparation rule 6.16</td>
<td>FS preparation rule 6.16</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>403, 404</td>
<td>FS preparation rule 6.16</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>4141</td>
<td>V. Trade and other payables</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>465, 466</td>
<td>1. Trade accounts payable</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>4752</td>
<td>a) Long-term trade accounts payable</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>4750, 4751, 4758, 476, 477</td>
<td>b) Short-term trade accounts payable</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>438</td>
<td>2. Payable to suppliers, group companies and associates</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>485, 568</td>
<td>3. Sundry creditors</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>502, 507; FS preparation rule 6.17</td>
<td>4. Payable to employees (accrued wages and salaries)</td>
<td></td>
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<tr>
<td></td>
<td>5. Current tax payable</td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Other tax payable</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>7. Advances from customers</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>VI. Current prepayments and accrued income</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>VII. Short-term debt with special characteristics</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

TOTAL LIABILITIES AND EQUITY (A + B +C)
### Appendix II

#### INCOME STATEMENT FOR THE YEAR ENDED ... DE 200X

<table>
<thead>
<tr>
<th>Account Nos.</th>
<th>Description</th>
<th>200X</th>
<th>200X-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>700, 701, 702, 703, 704, (706), (708), (709)</td>
<td>Net turnover</td>
<td>a) From sales</td>
<td></td>
</tr>
<tr>
<td>705</td>
<td>b) From services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(6930), 71*, 7930</td>
<td>Increase (decrease) in finished goods and work-in-process inventory</td>
<td></td>
<td></td>
</tr>
<tr>
<td>73</td>
<td>Own work capitalized</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(600), 6060, 6080, 6090, 610* (601), (602), 6061, 6062, 6081, 6082, 6091, 6092, 611*, 612* (607) (6931), (6932), (6933), 7931, 7932, 7933</td>
<td>Supplies</td>
<td>a) Consumption of merchandise</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>b) Consumption of raw materials and other consumables</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>c) Work done by other companies</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>d) Impairment of merchandise, raw materials and other supplies</td>
<td></td>
</tr>
<tr>
<td>75</td>
<td>Other operating income</td>
<td>a) Ancillary and other current operating income</td>
<td></td>
</tr>
<tr>
<td>740, 747</td>
<td>b) Operating grants transferred to income for the year</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(640), (641), (6450) (642), (643), (649) (644), (6457), 7950, 7957</td>
<td>Staff costs</td>
<td>a) Wages, salaries and similar expenses</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>b) Social security and other costs</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>c) Provisions</td>
<td></td>
</tr>
<tr>
<td>(62) (631), (634), 636, 639 (650), (694), (695), 794, 7954 (651), (659) (68) 746</td>
<td>Other operating expenses</td>
<td>a) Outside services</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>b) Taxes other than income tax</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>c) Losses, impairment and increase (decrease) in operating provisions</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>d) Other current operating expenses</td>
<td></td>
</tr>
<tr>
<td>7951, 7952, 7955, 7956</td>
<td>Other current operating expenses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(690), (691), (692), 790, 791, 792 (670), (671), (672), 770, 771, 772 774, (FS preparation rule 7.6) (678), 778, (FS preparation rule 7.9)</td>
<td>Government and other grants related to tangible fixed assets</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Excess provisions</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Impairment and gain (loss) on disposal of fixed assets</td>
<td>a) Asset impairment and losses</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>b) Gain (loss) on disposals and other</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Negative difference from business combinations</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other gains (losses)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* May be positive or negative
Appendix II
Income statement for the year ended ... 200X

INCOME STATEMENT FOR THE YEAR ENDED ... DE 200X

<table>
<thead>
<tr>
<th>ACCOUNT NOS.</th>
<th>Note</th>
<th>(Debit) Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>200X</td>
</tr>
<tr>
<td>14. Financial income</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7600, 7601</td>
<td>a) From equity investments</td>
<td></td>
</tr>
<tr>
<td>7602, 7603</td>
<td>a1) In group companies and associates</td>
<td></td>
</tr>
<tr>
<td></td>
<td>a2) In other companies</td>
<td></td>
</tr>
<tr>
<td>7610, 7611, 76200, 76201, 76210, 76211</td>
<td>b) From marketable securities and other financial instruments</td>
<td></td>
</tr>
<tr>
<td>7612, 7613, 76202, 76203, 76212, 76213, 767, 769</td>
<td>b1) Of group companies and associates</td>
<td></td>
</tr>
<tr>
<td>746; (FS preparation rule 7.4)</td>
<td>c) Subsidies, donations and legacies of a financial nature</td>
<td></td>
</tr>
<tr>
<td>(6610), (6611), (6615), (6620), (6621), (6640), (6641), (6650), (6651) (6654), (6655) (6612), (6613), (6617), (6618), (6622), (6623) (6624), (6642), (6643), (6652), (6653), (6656), (6657), (669) (660)</td>
<td>a) For debts to group companies and associates</td>
<td></td>
</tr>
<tr>
<td></td>
<td>b) For debts to other companies</td>
<td></td>
</tr>
<tr>
<td></td>
<td>c) For updating of provisions</td>
<td></td>
</tr>
<tr>
<td>(6630), (6631), (6633), 7630, 7631, 7633</td>
<td>16. Change in fair value of financial instruments</td>
<td></td>
</tr>
<tr>
<td>(6632), 7632</td>
<td>a) Financial assets held for trading and others</td>
<td></td>
</tr>
<tr>
<td>(668), 768</td>
<td>b) Credited (charged) to profit (loss) for the year for available-for-sale financial assets</td>
<td></td>
</tr>
<tr>
<td>(696), (697), (698), (699), 796, 797, 798, 799</td>
<td>17. Exchange differences</td>
<td></td>
</tr>
<tr>
<td>(666), (667), (673), (675),766, 773, 775</td>
<td>a) Impairments and losses</td>
<td></td>
</tr>
<tr>
<td></td>
<td>b) Gain (loss) on disposals and others</td>
<td></td>
</tr>
</tbody>
</table>
### Appendix II

Income statement for the year ended ... 200X

#### INCOME STATEMENT FOR THE YEAR ENDED ... DE 200X

<table>
<thead>
<tr>
<th>ACCOUNT NOS.</th>
<th>(Debit) Credit</th>
<th>Note</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>200X</td>
<td>200X-1</td>
</tr>
<tr>
<td></td>
<td>a)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>b)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>c)</td>
<td></td>
</tr>
<tr>
<td>a)</td>
<td>Inclusion of borrowing costs in assets</td>
<td></td>
</tr>
<tr>
<td>b)</td>
<td>Financial revenues from arrangements with creditors</td>
<td></td>
</tr>
<tr>
<td>c)</td>
<td>Other financial revenues and expenses</td>
<td></td>
</tr>
<tr>
<td>A.2</td>
<td>Net financial income (expense) ((14+15+16+17+18+19))</td>
<td></td>
</tr>
<tr>
<td>A.3</td>
<td>PROFIT (LOSS) BEFORE TAXES ((A.1+A.2))</td>
<td></td>
</tr>
<tr>
<td>A.4</td>
<td>PROFIT (LOSS) FOR THE PERIOD FROM CONTINUING OPERATIONS ((A.3+20))</td>
<td></td>
</tr>
<tr>
<td>B)</td>
<td>DISCONTINUED OPERATIONS</td>
<td></td>
</tr>
<tr>
<td>21.</td>
<td>Profit (loss) for the year from discontinued operations, net of taxes</td>
<td></td>
</tr>
<tr>
<td>A.5</td>
<td>PROFIT (LOSS) FOR THE YEAR ((A.4+21))</td>
<td></td>
</tr>
</tbody>
</table>

* May be positive or negative
A) Statement of recognised income and expense for the year ended 200X

<table>
<thead>
<tr>
<th>Account Nos.</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>(800), (89), 900, 991, 992</td>
<td>A) Result of the income statement</td>
</tr>
<tr>
<td>(810), 910</td>
<td>I. From valuation of financial instruments</td>
</tr>
<tr>
<td>94</td>
<td>1. Available-for-sale financial assets</td>
</tr>
<tr>
<td>(85), 95</td>
<td>2. Other income/ expenses</td>
</tr>
<tr>
<td>(860), 900; (FS preparation rule 8.1.2)</td>
<td>II. From cash flow hedges</td>
</tr>
<tr>
<td>(820), 920; (FS preparation rule 8.1.3)</td>
<td>III. Subsidies, donations and legacies received</td>
</tr>
<tr>
<td>(8300)<em>, 8301</em>, (833), 834, 835, 838</td>
<td>IV. For actuarial gains or losses and other adjustments</td>
</tr>
<tr>
<td></td>
<td>V. For non-current assets and related liabilities, held for sale</td>
</tr>
<tr>
<td></td>
<td>VI. Translation gain/loss</td>
</tr>
<tr>
<td></td>
<td>VII. Tax effect</td>
</tr>
</tbody>
</table>

B) Total revenue and expenses recognised directly in equity

<table>
<thead>
<tr>
<th>Account Nos.</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>(802), 902, 993, 994</td>
<td>(I+II+III+IV+V+VI+VII)</td>
</tr>
<tr>
<td>(812), 912</td>
<td>VIII. For valuation of financial instruments</td>
</tr>
<tr>
<td>(84)</td>
<td>1. Available-for-sale financial assets</td>
</tr>
<tr>
<td>(862), 902; (FS preparation rule 8.1.2)</td>
<td>2. Other income/ expenses</td>
</tr>
<tr>
<td>(821), 921; (FS preparation rule 8.1.3)</td>
<td>IX. For cash flow hedges</td>
</tr>
<tr>
<td>8301*, (836), (837)</td>
<td>X. Subsidies, donations and legacies received</td>
</tr>
<tr>
<td></td>
<td>XI. For non-current assets and related liabilities, held for sale</td>
</tr>
<tr>
<td></td>
<td>XII. Translation gain/loss</td>
</tr>
<tr>
<td></td>
<td>XIII. Tax effect</td>
</tr>
</tbody>
</table>

C) Total transferred to profit or loss (VI+VII+VIII+IX+X+XII+XIII)

TOTAL RECOGNISED INCOME AND EXPENSE (A + B + C)

* May be positive or negative
Appendix III

Statement of changes in equity for the year ended ... 200X

B) Total statement of changes in equity for the year ended ... 200X

<table>
<thead>
<tr>
<th>Capital</th>
<th>Registered</th>
<th>Share premium</th>
<th>Account</th>
<th>Reserves</th>
<th>Retained</th>
<th>Extraordinary (loss)</th>
<th>Revaluation surplus</th>
<th>Other capital contributions</th>
<th>Profit (loss) for the year</th>
<th>Interim dividend</th>
<th>Other equity instruments</th>
<th>Valuation adjustments</th>
<th>Subsidies, donations and legacies received</th>
<th>Total</th>
<th>Balance</th>
<th>Adjusted Opening Balance, 200X-1</th>
<th>Other changes in equity</th>
<th>Adjusted Opening Balance, 200X</th>
<th>Other changes in equity</th>
<th>Closing balance, 200X</th>
</tr>
</thead>
</table>

**A. CLOSING BALANCE 200X-2**

I. Adjustments for changes of accounting policy 200X-2 and previous years

II. Adjustments for errors 200X-2 and previous years

**B. ADJUSTED OPENING BALANCE, 200X-1**

I. Total recognised income and expense

II. Transactions with unitholders or shareholders

1. Capital increases

2. ( - ) Capital reductions

3. Conversion of financial liabilities to equity (bond conversions, debt forgiveness)

4. ( - ) Dividend distribution

5. Transactions with own shares or participation units (net)

6. Increase (decrease) in equity resulting from business combination

7. Other transactions with unitholders or shareholders

III. Other changes in equity

**C. CLOSING BALANCE, 200X-1**

Adjustments for changes of accounting policy 200X-1

Adjustments for errors 200X-1

**D. ADJUSTED OPENING BALANCE, 200X**

I. Total recognised income and expense

II. Transactions with unitholders or shareholders

1. Capital increases

2. ( - ) Capital reductions

3. Conversion of financial liabilities into equity (bond conversions, debt forgiveness)

4. ( - ) Dividend distribution

5. Transactions with own shares or participation units (net)

6. Increase (decrease) in equity resulting from business combination

7. Other transactions with unitholders or shareholders

III. Other changes in equity

**E. CLOSING BALANCE, 200X**

Guide to business in Spain
Annex III. Accounting and audit issues 34
Appendix IV
Cash flow statement for the year ended ... 200X

CASH FLOW STATEMENT FOR THE YEAR ENDED ... 200X

NOTES  200X  200X-1

A)  CASH FLOWS FROM OPERATING ACTIVITIES

1. Profit (LOSS) for the year before taxes
2. Adjustments to profit or loss
   a. Depreciation and amortization of fixed assets (+)
   b. Valuation allowances for impairment (+/-)
   c. Valuation of provisions (+/-)
   d. Government and other grants (-)
   e. Cash flows from retirements and disposals of fixed assets (+/-)
   f. Cash flows from retirements and disposals of financial instruments (+/-)
   g. Financial income (-)
   h. Financial expenses (+)
   i. Exchange differences (+/-)
   j. Change in fair value of financial instruments (+/-)
   k. Other income and expenses (+/-)
3. Changes in working capital
   a. Inventories (+/-)
   b. Trade and other receivables (+/-)
   c. Other current assets (+/-)
   d. Trade and other payables (+/-)
   e. Other current liabilities (+/-)
   f. Other non-current assets and liabilities (+/-)
4. Other cash flows from operating activities
   a. Interest paid (-)
   b. Dividends received (+)
   c. Interest received (+)
   d. Corporate income tax received (paid) (+/-)
   e. Other amounts received (paid) (+/-)
5. Cash flows from operating activities (1+2+3+4)

B)  CASH FLOWS FROM INVESTING ACTIVITIES

6. Payments for investments (-)
   a. Group companies and associates
   b. Intangible fixed assets
   c. Property, plant and equipment
   d. Investment property
   e. Other financial assets
   f. Non-current assets held for sale
   g. Business unit
   h. Other assets
Appendix IV
Cash flow statement for the year ended ... 200X

CASH FLOW STATEMENT FOR THE YEAR ENDED ... 200X

7. Received from divestments (+)
   a. Group companies and associates
   b. Intangible assets
   c. Property, plant and equipment
   d. Investment property
   e. Other financial assets
   f. Non-current assets held for sale
   g. Business unit
   h. Other assets

8. Other cash flows from investing activities (7+6)

C) CASH FLOWS FROM FINANCING ACTIVITIES

9. Receipts and payments for equity instruments
   a. Issuance of equity instruments (+)
   b. Amortization of equity instruments (-)
   c. Purchase of own equity instruments (-)
   d. Disposal of own equity instruments (+)
   e. Subsidies, donations and legacies received (+)

10. Receipts and payments for financial liabilities
    a. Issuance
       1. Debt securities and other marketable securities (+)
       2. Debts to credit institutions (+)
       3. Debts to group companies and associates (+)
       4. Debts with special characteristics (+)
       5. Other debts (+)
    b. Repayment and amortization of
       1. Debt securities and other marketable securities (-)
       2. Debts to credit institutions (-)
       3. Debts to group companies and associates (-)
       4. Debts with special characteristics (-)
       5. Other debts (-)

11. Payments for dividends and remuneration of other equity instruments
    a. Dividends (-)
    b. Remuneration of other equity instruments (-)

12. Cash flows from financing activities (9+10 +11)

D) EFFECT OF CHANGES IN EXCHANGE RATES

NET INCREASE/DECREASE IN CASH OR CASH EQUIVALENTS (5+8+12+D)

Cash or cash equivalents at beginning of year
Cash and cash equivalents at end of year
This guide was researched and written by Garrigues on behalf of ICEX-Invest in Spain.

This guide is correct to the best of our knowledge and belief at the date indicated below. It is, however, written as a general guide, so it is necessary that specific professional advice be sought before any action is taken.

Madrid, March 2015