

# SPAIN

As per 1 January 2018

## EXPATRIATE AND EMPLOYER TAX COMPLIANCE AND ADVISORY

### Personal Income Tax Rates – Employment Income

Progressive personal income tax rates with a general 45% marginal rate for withholding tax purposes (final tax rate can vary depending on the Spanish Region where the taxpayer lives).

### Tax period

Calendar year.

### Tax residency / Domicile according to domestic law

An individual is considered tax resident in Spanish territory when any one of the following circumstances is fulfilled:

- he/she has stayed longer than 183 days in Spanish territory over the calendar year. In order to determine the permanence in Spanish territory, sporadic absences are considered except if the taxpayer can prove his/her tax residence in another country. In the case of countries or territories labelled as tax havens, the Spanish Tax Authorities can demand proof of stay in that tax haven over a period of 183 days within the calendar year.
- he/she has the main base or center of their activities or economic interests, directly or indirectly, in Spain.

Additionally, the Spanish Personal Income Tax Law establishes a presumption of tax residence in Spain in case the spouse and dependent children of the taxpayer (under 18 years old) are tax residents in Spain. This presumption can be broken by the taxpayer by filing a tax residence certificate issued by the Tax Authorities of his/her country of residence.

### Tax registration

Any individual or entity, either tax residents or non-tax resident in Spain, who has relations with the Spanish Tax Authorities, must have a Tax Identification Number (NIF) granted by this one, which will have to be included in all tax returns and forms.

### Employment income definition

According to the Spanish Personal Income Tax Law, all considerations or utilities, irrespective of their name or nature, be they monetary or in kind, that derive directly or indirectly from personal work or an employment or statutory relationship and are not business earnings, shall be considered employment income.

Employment income can be considered as cash income or as benefit in kind.

Benefit in kind is the use, consumption or obtaining, for private purposes, of items, rights or services free of charge or at a lower price than the normal market price, even when they do not involve a real expense for the person or entity granting them.

### Examples of tax exemption

Spanish tax residents are subject to taxation in Spain on their worldwide income.

Therefore, in principle, employment income obtained from services rendered abroad will be taxable. However, an exemption may be applied as long as, among others, the following conditions are met.

Services are physically rendered out of Spain for the benefit of a non-resident company or a permanent establishment located abroad.

The country where the services are rendered is not a tax haven and has a similar tax to Spanish PIT (this requirement will be understood to be met when the country or territory in which the services are performed has a Tax Treaty to avoid double taxation in force with Spain with an exchange of information clause).

The income that may benefit from this exemption has an annual maximum limit of EUR 60,100.

Eventual tax treaty provisions should also be considered.

Reimbursement of actual expenses related to the employee's and family relocation should

	<p>not be considered as income, provided they cover travel expenses, or living allowance for the taxpayer and his/her family during the first move, and they are documented through the corresponding invoice. In addition, expenses connected with moving personal goods, provided that they are duly justified through the corresponding invoice, should not be considered as income.</p> <p>Certain benefits in kind provided by the company to the employee, such as meal vouchers up to a daily amount of EUR 11, nursery vouchers, public transport vouchers within certain limits, medical insurance premiums up to a maximum annual amount of EUR 500 per family member covered, etc. can be exempt from taxation under certain conditions.</p>
<b>Specific expatriate concession</b>	<p>A Special Tax Regime for inbound employees can be applied by taxpayers who arrive to Spain as a consequence of a labour contract, letter of assignment or due to the appointment as Director of a Spanish Company. They can opt between being taxed under the Ordinary Tax Regime (on their worldwide income at a progressive scale), or as a non-resident.</p> <p>Under this Special Tax Regime, taxpayers are taxed on their worldwide employment income at a 24% flat tax rate for the first EUR 600.000 while any employment income exceeding that amount will be taxable at the marginal rate applicable to tax residents, 45%. For the rest of income, only Spanish source income will be subject to taxation in Spain.</p> <p>The application for the Special Tax Regime needs to be done in the first 6 months from their arrival to Spain and would be applicable for 6 years if the legal conditions are fulfilled.</p>
<b>Income of board members</b>	Remuneration received will be considered as employment income taxable.
<b>Tax returns</b>	<p>The annual personal income tax return (PIT) is filed electronically between April and June of the following year, through Form 100. From the result, the amounts already paid are deducted (instalment payments and withholding taxes, Social Security contributions, etc). In case the taxpayer opted for the Special Tax Regime for inbound employees, Form 151 must be filed in the same dates.</p>
<b>Tax payments</b>	<p>In general terms, individuals, legal persons and other entities residents or non-residents in Spain that are carrying on business activities in Spanish territory with or without Permanent Establishment, shall be subject to withholding taxes obligation in relation to the employment incomes they pay.</p> <p>For Spanish tax residents under the Ordinary Tax Regime, withholding taxes are calculated according to a progressive scale based on the amount of taxable income that is expected to be paid during the tax year and the personal circumstances of the employee.</p>

## TAX TREATIES

<b>Employment income / income from board members</b>	Art 15/16 Model OECD Tax treaties
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## INTERNATIONAL SOCIAL SECURITY

<b>Cross border employments</b>	EU Regulation No 883/2004 and EU regulation No. 1408 / 71 and several social security treaties
<b>Exception under Art 16 of Reg. 883/2004 and Art 17 of Reg. 1408/71</b>	Generally applicable.
	<p>The Spanish social security system is made up of several schemes offering a wide range of benefits.</p> <p>This system includes benefits for common sickness and accidents, occupational disease</p>

**Social Security Cost as % from gross salary and absolute amounts**

and accidents at work, unemployment, invalidity, retirement, death and survival and unemployment.

The contributions, which are applied on the basis of contributions, are distributed between the employer (approx. 32%) and the employee (6.35%), with a maximum monthly contribution basis of EUR 4,070.10.

Once there is a causal event that could lead to the collection of a benefit or pension, it must be reviewed whether the requirements established for each of them are met.

## IMMIGRATION

**Work permit**

Swiss, EU and EEA nationals do not need a work permit to work in Spain. Nationals of another countries need a work permit in order to perform (employment) activities in Spain.

**Visa**

Citizens from any State of the European Union, Switzerland, Norway, Iceland and Liechtenstein only need a valid national identity document or passport. Citizens from the United Kingdom and Ireland will require a passport since their countries are not members of the Schengen Area.

Nationals of another country need a visa to enter into Spain. Visas must be applied for in person or through a duly accredited representative at the Spanish Diplomatic Mission or Consular Post of the district in which the applicant legally resides.

**Residency permits / registration certificate**

Citizens become residents if they spend more than 90 days in Spain.

There are two places where you can obtain a "Spanish residence": Spanish National Police stations are properly assigned to issue NIE numbers, or Spanish Embassy of the country in which the applicant legally resides.

**Driving license**

Citizens from a European Economic Area (EEA) country (EU plus Iceland, Norway and Lichtenstein) are free to drive in Spain using their existing driver's license for the first two years of residence in Spain, although they must register their details with the traffic authorities after six months. Citizens from outside the EEA may drive in Spain using their existing foreign driver's license for up to six months after they have registered for residency in Spain. If the foreign license is not in Spanish, an official translation or an International Driving Permit (IDP) is required.

**STOCK OPTION PLAN**

Benefited employees for this stock option plan can apply specific tax benefits.

## ARTICLE 15 OF THE OECD MODEL

**183 days**

The days of physical presence will be accounted per calendar year, tax year or 12 month period (depends on tax treaty).

**Notion of employer**

Economic and formal employer

**Existence of a permanent establishment**

The definition of a permanent establishment is determined in the tax treaty



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