Doing Business Guide

Spain

1st Edition

Morison AC, S.L.P.

An independent member of
Morison International

About This Booklet

This booklet has been produced by Morison AC, S.L.P. for the benefit of its clients and associate offices worldwide who are interested in doing business in Spain.

Its main purpose is to provide a broad overview of the various things that should be considered by organisations considering setting-up business in Spain.

The information provided cannot be exhaustive and – as underlying legislation and regulations are subject to frequent changes – we recommend anyone considering doing business in Spain or looking to the area as an opportunity for expansion should seek professional advice before making any business or investment decision.

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Introduction – The Kingdom of Spain

History

Spain, also known as the Kingdom of Spain, is a sovereign country. A member of the European Union, Spain is established as a social and democratic state, its government is a parliamentary monarchy.

The country is divided into 17 autonomous regions and two autonomous cities, the capital being Madrid. Spain is located in Western Europe, where its territory includes most of the Iberian Peninsula and the Balearic Islands archipelago (in the western Mediterranean Sea), as well as the cities of Ceuta and Melilla in North Africa. Covering an area of 504,645 km^2, Spain is the fourth largest country in the continent (after Russia, Ukraine and France) and is also one of the most mountainous countries in Europe, with an average altitude of 650 m.

The official language is Spanish or Castilian; however, many professionals also speak English, French or German.

Spain today

Spain's appeal to foreign investors lies not only in the strong purchasing power of its domestic market, but also because its privileged geostrategic position makes it a convenient base for operating in third-country markets.

Furthermore, Spain is a modern knowledge-based economy, with services accounting for 69% of economic activity. The country has become a centre of innovation supported by a young, highly qualified workforce and competitive costs. Recent data on the demographics, political framework and economic structure of the country are reported in this guide.

Demographics

The strong economic growth rate, which has seen the rapid expansion of the country since 1993, demands a large workforce. Spain is the eighth most multiethnic country in the world, with a large influx of immigrants in the late twentieth century from Latin American countries such as Ecuador, Colombia, Argentina, Bolivia, Peru and the Dominican Republic, as well as from different parts of Africa, Asia and Europe.

Spain is a markedly urban society: 32% of the population lives in the provincial capitals. See Tables 1–3 for more detailed demographic information.

Table 1. Population statistics.

Total population	47.2 million
Distribution by age	0–15: 16%
	16–64: 67%
	65+: 17%
Population density	93.5 inhabitants/km^2
Urban population	79%
Working population	60%
Working population by industry	Agriculture 4.5%
	Industry 14%
	Construction 7%
	Services 75%
Demographic composition	88% Spanish; 12% foreign
Religion	72% Catholic
Official language	Castilian is the official state language. Other Spanish languages also have official status in their respective autonomous communities, in accordance with their Charters of Autonomy (Article 3 of the Constitution)

Source: National Statistics Institute. Data at 1 January 2011, Municipal Register Report. Working population with data from Q4 of 2011.

Table 2. Variation in working population by industry (%).

	2009	2010	2011
Agriculture	4	4	4.5
Industry	14	14	14
Construction	10	8.5	7
Services	72	73	74

Source: National Statistics Institute.

Table 3. Foreigners resident in Spain, by continent of origin.

	2009	2010	2011
Europe	2,007,633	2,172,068	2,277,686
The Americas	1,479,014	1,409,547	1,484,511
Asia	299,743	313,728	343,452
Africa	944,696	1,028,489	1,086,349
Oceania	1,903	1,758	1,820
No info/Other	8,243	1,018	1,112
TOTAL	**4,791,232**	**4,926,608**	**5,194,930**

Source: Ministry of Labour and Social Affairs. Figures at 30 September 2011

Political structure

Spain is a constitutional monarchy (see Table 4), with a hereditary monarch who acts as head of state and a bicameral parliament, the Cortes Generales.

Table 4. Spain's political framework.

Political structure	Parliamentary monarchy
Head of State	King Juan Carlos I
Prime Minister	Mariano Rajoy Brey (elected 21 December 2011)
Parliament	Lower House (350 members) and Upper House (264 members)
Party in power	*Partido Popular* (Popular Party (PP))
Territorial organisation	Territorially, the state is organised into municipalities, provinces and autonomous communities. There are 17 autonomous communities and two autonomous cities (Ceuta and Melilla, in North Africa)
European Union	Member state since 1986

Economy

Spain is a dynamic country with an advanced economic model, one of the most open of the euro-zone economies. Currently the 12th world economic power, it has been ranked eighth and even seventh based on nominal GDP. In 2010, Spain had a human development index of 0.878 (23rd in the world), according to the UN. The euro became the official currency on 1 January 2002, replacing the peseta.

Traditionally an agricultural country, Spain is still one of the largest producers in Western Europe. The services sector and industry represent some 86% of Spain's GDP, with growth throughout the steel, shipbuilding, textiles and mining industries, supported by revenue from tourism. Economic policies have evolved since Spain became a full member of the European Union in 1986.

Trade and investment

In recent years, the rapid growth in imports and exports has made Spain one of the most internationally oriented countries in the world, with figures for Spanish foreign investment reaching $22,000 million in 2010.

Spain's main trading partners are the 27-nation EU member states, accounting for 66.4% of total exports and 52.8% of imports, followed by Asia and Africa (respectively accounting for 7.7% and 5.3% of total exports and for 19.8% and 9% of total imports), which have displaced Latin and North America (except in exports) from their traditional role as Spain's main trade partners outside the EU.

Spain is one of the most active countries trading goods and services – ranked 18th in the world as an exporter and 14th as an importer of goods; 8th and 14th as an exporter and importer of services.

The Spanish share in global export and import of goods (Spanish exports/global exports) is 1.6% and 2%, respectively. The Spanish share in global export and import of services stands at 3.3% and 2.5%.

The breakdown by industry of foreign trade is relatively diversified (see Table 5).

Table 5. Breakdown of main exports and imports in 2011 (as % of total).*

Exports		Imports	
Capital goods	20	Energy products	21
Automobile industry	16	Capital goods	18
Food	14	Chemical products	14
Chemical products	13.5	Consumer goods	11
Semi-manufactured non-chemical products	12	Automobile industry	10.5
Consumer goods	8	Food	10
Energy products	7.5	Semi-manufactured non-chemical products	8
Other goods	4	Raw materials	4
Raw materials	3	Durable consumer goods	2.5
Durable consumer goods	2	Other goods	1

*Data available for January–November 2011.
Source: Ministry of Industry, Tourism and Trade.

Infrastructure

Spain is ranked 1st in the EU in terms of the number of high-capacity toll roads and highways and 1st in the EU and 2nd worldwide after China, in terms of the number of kilometres of high-speed railway tracks. In addition, it boasts 47 airports and 46 international ports which, when combined with the country's geostrategic position, make Spain one of the leading hubs for passenger and goods transportation.

Foreign investment regulations

Spain has deregulated practically all transactions in this area. In particular:

- Foreign investments do not require prior government approval and, as a general rule, are registered after the transaction, except for:
  - Investments from tax havens
  - Foreign investments in activities directly related to national security
  - Real estate investments for diplomatic missions by states that are not EU members and require 'prior verification' from the Spanish Council of Ministers

- Unless expressly provided, there is no obligation for foreign investments to be notarised in the presence of a Spanish public authenticating official
- There is no need to report certain foreign investments after the event if they are below €3,005,060.52 (unless the investment is from a tax haven)
- Investments in industries relating to air transportation, radio, television, telecommunications, gambling, raw materials, minerals of strategic interest and mining rights, private security, the manufacturing, marketing or distribution of arms and explosives, and in activities related to national security, are all subject to additional industry-specific legislation.

Exchange controls

- As a general rule, all acts, businesses, transactions and operations between residents and non-residents that involve or may involve payments abroad or receipts from abroad are completely deregulated. This deregulation includes payments or receipts made either directly or by offset of the underlying transactions, as well as transfers to/from abroad and variations in accounts or financial debtor/creditor positions abroad. It also covers the import or export of means of payment
- In certain cases, in order to calculate the Spanish balance of payments and to maintain statistical control of monetary flows, certain formal records must be kept, including prior registration of the origin, destination and holding of funds when some means of payment is made. The recently approved regulations eliminate (as of 1 June 2012) the registered entity's obligation to supply information not immediately available; the obligation remains to provide information that is immediately available
- Notification of foreign loans and credits provided by non-residents to residents requires (prior to the first draw-down of funds of the loan or credit provided) the resident borrower concerned to obtain a financial transaction number (NOF) when the amount is equal to or higher than €3 million.

Legal Structure of Business Organisations

Setting up a business in Spain is simple. The types of business entities available are in keeping with those in other OECD countries (see Table 6), and there is also a wide range of options for those who wish to invest in or from Spain. It is also worth noting that foreign investment restrictions and exchange controls have been virtually eliminated, in line with 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 fulfil in order to set up or start up each of them.

Table 6. Business entities in Spain.

Type of entity*	No. of shareholders	Minimum capital	Liability
Corporation (SA)	At least 1	At least €60,000	Limited to capital contributed
European company (SE)	At least 1	At least €120,000	Limited, in principle, to the capital subscribed
Limited liability company (SL)	At least 1	At least €3,000	Limited to capital contributed
New business limited liability company (SLNE)	Minimum 1 / maximum 5 at the time of formation (only natural persons)	Between €3,000 and €120,000	Limited to capital contributed

Corporation (SA)

The minimum capital required to set up a corporation (SA) is €60,000. The capital stock must be fully subscribed and at least 25% of the par value of the shares must be paid in. The shareholders' meeting is the ultimate managing body of an SA, with authority to appoint and remove its directors. The executive managing body of an SA is made up of one or more directors, who need not be shareholders or Spanish nationals.

Legal formalities to incorporate an SA:

The new corporation in Spain will have to appoint an individual with a Spanish national identity card number as its representative. If the individual is not Spanish, he or she will first have to apply for an **alien identification number** (NIE).

General steps to incorporate an SA:

- Obtain a clear name search certificate from the Central Mercantile Registry
- Granting of powers of attorney for the incorporation, if applicable
- Execution by the future shareholders of an agreement of intent to set up the new company

- Obtain a provisional Tax Identification Number (NIF)
- Open a bank account
- Obtain a certificate of deposit of initial capital
- Determination of the administration body
- Draft the SA's by-laws
- Sign the public deed of incorporation before a notary
- File a tax return and pay transfer tax (tax exempt pursuant to Royal Decree-Law [RDL] 3/2010)
- Register the SA at the Mercantile Registry
- Obtain a definitive NIF
- Declare the foreign investment at the Foreign Investment Registry, which is attached to the Ministry of Industry, Tourism and Trade (for statistical purposes only).

As a general rule, it takes 6 to 8 weeks to incorporate an SA; typical costs are shown in Table 7.

At this point, the SA will be legally incorporated, although, before opening for business, the SA will have to complete other formalities with the tax (see www.aeat.es) and social security authorities (as outlined in Table 7), as well as at the Ministry of Labour and the relevant Municipal Council.

- **Register for tax on business activities (IAE):** IAE is a local tax levied on business, professional and artistic activities (companies starting business in Spain are exempt from this tax for their first two tax periods). Registration for IAE must be completed 10 business days before starting business by submitting documentation to the relevant tax office.
- **Register for VAT:** Before starting business, a declaration of commencement, modification, or cessation of business must be submitted for tax purposes by traders, professionals and other parties required to pay VAT. The documents to be submitted to the relevant tax office include form 036, national identity card number or employer identification number (for companies) and registration for IAE.
- **Register as an employer for social security and for occupational accident insurance purposes:** Any trader who will hire employees must register for these purposes before starting business. The trader obtains an employer social security number and takes out an occupational accident policy to cover all employees. Registration takes place at the Social Security General Treasury pertaining to the company's registered office. The directory service of the Office of the Secretary of State for Social Security can be accessed through their website, and provides contact information on social security offices by autonomous community. Documents required: company registration form, identification of the individual registering the company and the legal capacity in which he or she does so, employer identification number, deed of formation or relevant certificate of registration.

- **Register for and give notice of new employees for social security purposes:** This is done by the employer and is mandatory for all its employees. The following formalities must be completed with the municipal council if a premise is going to be opened, construction work is going to be done on it, or there is a change in ownership or type of business:
  - **Obtain an opening license:** This evidences the compliance of the planned facilities with the zoning legislation in force and with any applicable technical regulations. Before starting business, application must be made to the zoning department of the Municipal Council where the business will be based, by supplying a standard form, photocopy of national identity card number and taxpayer identification number, photocopy of registration for the tax on business activities, plans of the premises, construction license (license necessary to carry out any kind of construction work on a premises, warehouse or establishment), and payment receipt.
  - **Notify opening of workplace:** Notify the Ministry of Labour and Social Affairs of the opening of the workplace where the business will be carried out, as well as of the resumption of business following any major alterations, expansion or changes in the workplace. This must be done 30 days following the opening of the workplace or resumption of business.
  - **Obtain and legalise employee registration book and labour inspection visits book:** All employers are required to have a visits book upon starting business, so that visiting labour inspectors can record the necessary entries in it. When hiring employees, they must also keep the employee registration book in order and up-to-date by registering all employees when they start to work. Both registers are dealt with by the provincial Labour and Social Affairs Office pertaining to the tax domicile of the company.

Table 7. The cost of establishing a corporation (SA).

Cost	Amount
Transfer tax	Exempt from transfer tax in accordance with RDL 3/2010
Notary's fee for notarising the deed of incorporation	• €90 for the first €6,010 • Between 0.45% and 0.03% for capital between €6,010 and €6,010,121 • Over €6,010,121: as agreed by the parties
Fee for registering the SA at the Mercantile Registry	• €6.01 for the first €3,005 • Between 0.10% and 0.005% for capital over €3,005 • Total fee cannot exceed €2,181
Opening licence	Municipal tax (generally a low amount)
Other expenses (e.g. professional fees)	Difficult to quantify

For example, it would cost approx. €400 in total (without taking into account professional fees) to incorporate an SA with an initial capital stock of €100,000.

European Company (SE)

A European Company offers companies that operate in several EU member states the option of being established as a single company for the purposes of EU law, and of being able to operate in the EU under a unified management and reporting system. The SE makes it possible for companies to reduce their overall administrative costs with a legal structure that is compliant with EU regulations.

The subscribed capital may not be less than €120,000, and the SE can be formed by means of a merger; forming an SE holding company; forming an SE subsidiary; or converting an existing SA. It must be registered at the Mercantile Registry. The managing bodies are: (i) the shareholders' meeting; (ii) either a managing body (one-tier system) or a managing body and an oversight body (two-tier system). The liability of the shareholders is limited, in principle, to the capital subscribed.

Legal formalities for forming an SE are similar to those for a SA.

Limited Liability Company (SL)

Flexibility is one of the main hallmarks of this kind of company, since it gives the shareholders considerable leeway to define the SL's internal rules of governance in the by-laws.

The minimum **capital** is €3,000 and must be fully paid in at the time of formation. The capital must be divided into shares (participaciónes). In general, its shares cannot be transferred (unless to other shareholders, ascendants, descendants, or companies of the same group) unless otherwise provided in the by-laws.

Unlike an SA, no independent expert's report is required for non-cash contributions. The shareholders' meeting is the ultimate managing body and has authority to appoint and remove the directors of the SL. The executive management body of an SL is made up of one or more directors, who need not be shareholders or Spanish nationals.

Legal formalities to form an SL are similar to those for an SA. However, there are abbreviated procedures for the formation of SLs by electronic means, which reduces the costs, the documentation required and the registration period at the Commercial Registry. The simplified procedures are applicable only to SLs that fulfil certain requirements (individual shareholders, capital below a fixed amount and other requirements related to the managing body and the adequacy of the by-laws). The costs involved are similar to those for an SA.

New Business Limited Liability Company (SLNE)

This is a special type of Limited Liability Company, intended to encourage new small and medium-sized enterprises by making it easier for them to both set up and do business.

The company name will include the first name and two last names (Spanish surnames include the family names of both parents) of one of the founding shareholders followed by an alphanumeric code and the words 'New Business Limited Liability Company' (SLNE is the Spanish acronym). The capital stock may not be less than €3,000 or more than €120,000, and it can only be paid in cash. The corporate purpose is general in nature, allowing greater flexibility. The shareholders of an SLNE can only be individuals, and there can be no more than five at the time of formation. Lastly, the members of the managing body must be shareholders. The cost is similar to that of an SA.

Professional Company (SP)

Professional Companies (SPs) are characterised by three specific general traits:

- Their corporate purpose can only be the pursuit in common by various members of a professional activity (requiring an official university or professional qualification and registration with a professional association). This implies that all firms with such a purpose must be formed as professional services firms
- Professional members (i.e., individuals or other professional services firms that meet the requirements necessary to engage in the professional activity) must have a stake in the company's capital
- Professional Companies may be formed in accordance with any of the forms provided for in the law, as long as they contemplate the specific requirements included in the Professional Services Firms Law. The corporate name of this kind of company should include, together with the corporate form in question, the expression 'Professional' or the abbreviation 'P' (for example, *Sociedad Anónima Profesional* [Professional corporation; SAP]).

In this respect, the Professional Services Firms Law establishes, among others, that the composition of the professional services firm requires that three-quarters of the capital and of the voting rights, or three-quarters of the capital and of the number of members in entities owned and managed by the same persons, must belong to the professional members. Likewise, three-quarters of the members of the managing body must be professional members; and if the managing body has only one person, such duties must necessarily be performed by a professional member.

The professional activity will be pursued in accordance with the code of ethics and disciplinary rules specific to the professional activity carried out, with the grounds of incompatibility or disqualification of the members affecting the company itself. The SP may also be fined on the terms established in the disciplinary rules that apply under its professional code.

In this sense, without prejudice to the liability of the members in accordance with the rules of the corporate form adopted, 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 non-contractual liability as may apply.

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 by-laws permit transfers by agreement of the majority of the members.

SPs are regulated by the Professional Services Firms Law and supplementary, by the rules corresponding to the form already provided by the law adopted (SL, SA). In addition to mandatory registration at the Mercantile Registry, SPs must be registered at the Professional Services Firms Registry of the professional association in question. Costs are similar to those for an SA and SL.

Branch

To open a branch, a public deed must be signed and registered at the Mercantile Registry. Under Spanish foreign investment legislation, the branch must be allocated capital, although there is no minimum capital requirement.

The branch must have a legal representative with authority to manage its affairs. It has no formal managing or administrative bodies as such, and largely operates as if it were a company in its commercial dealings with third parties.

The choice between forming a branch or a subsidiary in Spain may be influenced by commercial considerations (e.g., a company might provide a more 'stable' presence than a branch) or by considerations of legal certainty (a subsidiary limits the shareholder's liability).

Broadly speaking, the requirements, formalities and costs related to opening a branch are very similar to those for forming a subsidiary. The most important legal differences between a branch and a subsidiary are summarised in Table 8.

Table 8. Legal distinctions between a branch and a subsidiary.

<table>
<tr><th></th><th>SA</th><th>SL</th><th>Branch</th></tr>
<tr><td>Concept</td><td colspan="2">Company of a commercial nature engaging in a business with its own capital</td><td>Permanent establishment, enjoying a certain degree of management independence. Vehicle for parent company's activities. Lacks separate legal personality from its parent company</td></tr>
<tr><td>Stock capital</td><td>Minimum of €60,000</td><td>Minimum of €3.000</td><td>Not required</td></tr>
<tr><td>Cash and non-cash contributions</td><td colspan="3">Cash contributions in euros. In the case of an SA, non-cash contributions require a report from an independent expert appointed by the Mercantile Registrar</td></tr>
<tr><td>Registration</td><td colspan="2">Public deed must be registered at the Mercantile Registry</td><td>Together with the public deed creating the branch, the documents attesting the existence of the parent company, its by-laws in force, its directors and the decision to open the branch, duly legalised, must be registered with the Mercantile Registry</td></tr>
</table>

Tax considerations

A rate of 30% corporate income tax is applicable to both the branch and the subsidiary, based on their net income. However, the following aspects must be taken into account:

- The remittance of income from a branch, or the distribution of dividends from a subsidiary to a parent company not resident in the EU or in a country that has a tax treaty with Spain, is taxed in Spain at 19% (21% for tax years 2012 and 2013). If the parent company is resident in the EU, the remittance/distribution is usually tax exempt
- If the parent company is resident in a non-EU country that has a tax treaty with Spain, any dividends in the case of a subsidiary will be taxed at the reduced treaty rate, whereas any remittance of income in the case of a branch will not be taxed in Spain (under most tax treaties)
- General cost-sharing arrangement with the parent company: in practice, it is usually easier for general costs to be considered deductible in the case of a branch than in the case of a subsidiary
- Interest on loans from the foreign parent company to its Spanish branch is not, in principle, tax deductible by the branch. Interest on loans from the shareholders of a subsidiary is usually deductible by the subsidiary, provided that it is at an arm's-length rate and the ratio of net remunerated indebtedness is not exceeded (note that the ratio does not currently apply to entities resident in the EU).

Representative offices

A representative office is not a separate legal entity from its parent company, and has no formal managing bodies, since management duties are delegated to the office's representative. In principle, a representative office cannot trade and its business activities are essentially coordination, assistance, etc. The non-resident company is liable for the debts incurred by its representative office.

In general, opening a representative office requires no commercial law formalities – although for tax, employment and labour law and social security purposes, a public deed (or a document signed in the presence of a foreign notary, and duly legalised by the Hague Apostille or any other applicable legalisation system) might need to be signed, placing on record the opening of the representative office, the allocation of any funds, the identity of its tax representative (an individual or legal entity resident in Spain), and the representative's authority. The opening of the representative office is not registered at the Mercantile Registry.

Start-up costs

Spain has a comparative advantage in labour, location and energy costs. The annual average profit per worker in Spain is almost €22,000 according to the Annual Labour Cost Survey by the Spanish National Statistics Institute (INE) for 2011. The pay differences between the various educational qualifications are notable (see Table 9).

Spain has an ample supply of available office space at highly competitive prices, clearly below those of other European business hubs, in terms of both the price of land and average office rents.

Table 9. Pay differences according to educational qualifications.

	Both sexes	Men	Women
TOTAL	21,883.42	24,203.33	18,910.62
Management of Public Authorities and of companies of ≥10 employees	60,453.18	65,611.82	49,481.63
Management of companies with <10 employees	38,661.71	42,325.98	--
Occupations associated with qualifications of 2nd and 3rd university cycle and similar	35,505.28	39,108.31	31,863.45
Occupations associated with qualification of 1st university cycle and similar	29,525.37	31,736.83	28,040.03
Professional support technician	27,591.92	30,844.56	23,914.38
Administrative employees	18,991.08	22,790.90	17,004.40
Restaurant and postal service workers	14,389.61	16,174.82	13,554.17
Protection and security services workers	27,889.34	28,409.87	24,310.03
Shop assistants and similar	14,425.88	17,261.14	13,293.08
Qualified workers in agricultural and fishing sectors	18,052.66	17,997.10	18,541.07
Qualified construction workers (excluding machine operators)	20,073.27	20,124.79	18,376.70
Qualified workers in extractive, metallurgy and machine construction sectors	23,685.15	23,803.51	21,387.61
Qualified workers in graphic art, textile and clothing, food preparation industries, cabinetmakers, artisans and other similar workers	16,496.89	18,628.63	13,405.35
Industrial installations, fixed machinery operators; assemblers	21,437.06	23,185.39	15,985.56
Drivers and mobile machinery operators	19,677.69	19,885.81	15,129.51
Unqualified services workers (excluding transportation	13,573.18	16,545.78	11,939.04
Labourers in agricultural, fishing, construction, manufacturing and transportation industries	15,328.05	15,914.17	12,893.16

Source: Spanish National Statistics Institute

Intellectual property

In general, the principle of registration prevails: there is no right in an invention (patent), distinctive sign (trademark), industrial design, or computer software unless and until it is registered.

Unlike countries such as the USA, Spain uses the 'first to file' system, whereby the first party applying to register has priority; in other words, use alone does not give any right against others, except in the case of well-known trademarks.

The principle of territoriality also prevails: protection is only afforded in the countries in which the trademark or patent is registered. Elsewhere, the trademark or patent can be freely used by others, since it is understood that it is in the public domain. Accordingly, trademark or patent registration in the country of origin does not grant protection in other countries.

Patent and trademark rights are property rights and can therefore be assigned or charged or transferred by any legally permitted means. License agreements are most often used for this purpose.

Spanish intellectual property laws are harmonised with those of the other EU member states, and Spain has ratified the main international treaties in this field.

Taxes

The Spanish tax system is modern and pro-business.

The main direct taxes applicable in Spain are:

- Corporate income tax
- Personal income tax
- Non-resident income tax

The main indirect taxes applicable in Spain are:

- Value added tax (VAT)
- Transfer and stamp tax

With a view to fostering investment, employment, competitiveness and economic growth, the Spanish central government and Spain's other public incentives authorities have developed and consolidated a wide and complete range of aid instruments and incentives, placing special emphasis on fostering indefinite-term employment and on research, development and technological innovation (R&D&I). Moreover, the fact that Spain is an EU member state enables potential investors to benefit from European aid programs, which makes investment in Spain even more attractive.

Labour and Personnel

Job market

The Spanish labour market has been characterised in the last years by the approval of different regulations in order to adopt measures according to the special economic circumstances. In this scenario, RDL 3/2012, of 10 February 2012, on Urgent Measures to Reform the Labour Market, has been approved. The Reform is aimed to put in place a clear labour and employment law framework that will contribute to more efficient management of employment relationships, and lead to the creation of jobs and stable employment.

This chapter sets out the main types of employment contracts, rules governing senior executive contracts, payroll responsibilities when taking over a business, and the social security system.

Types of contract

Employment contracts can be for an indefinite or fixed term.

The different types of fixed-term contract are shown in Table 10. The reason for the temporary nature of these contracts, if applicable, must be specified.

Table 10. Types of fixed-term contract.

TYPE	Contract for project work or services
PURPOSE	Performance of independent work or services within the context of the company's business
DURATION	Depends on the time taken to execute the project, with a maximum of 3 years, which may be extended for a further 12 months by a nationwide sectorial collective agreement or, in the absence thereof, by a sectorial collective agreement of a more limited scope
COMMENTS	It should mention the work and project clearly and precisely. Currently, its termination entitles the employee to receive severance equal to 9 days' salary per year worked (see Table 11). When the maximum periods of duration of the agreement or the aggregated agreements have elapsed, the workers will acquire the status of indefinite-term employees of the company
TYPE	Casual contract due to production overload or backlog
PURPOSE	To meet market needs production overload or backlog
DURATION	A maximum of 6 months within a 12-month period (may be extended by an industry-wide collective labour agreement for 18 months, but it may never exceed ¾ of that period, or the maximum term of 12 months)
COMMENTS	It should mention the work and project clearly and precisely. Currently, its termination entitles the employee to receive severance pay equal to 9 days' salary per year worked (see Table 11)

TYPE	Contract to substitute employees entitled to return to their job
PURPOSE	To substitute workers job by provision of law, of a collective labour agreement or of an individual contract
DURATION	From the beginning of the period until return of the replaced worker or expiry of the term established for the substitution
COMMENTS	One of the formalities is that it should contemplate the name and the cause for the worker's substitution
TYPE	Work experience contract
PURPOSE	Hiring of university graduates, those with a Master's or Doctor's degree, or workers with higher or advanced vocational training qualifications; or workers who have a professional qualification
DURATION	A minimum of 6 months and a maximum of 2 years. Sick leave, leave due to risk during pregnancy, maternity leave, adoption or fostering, leave due to risk during breastfeeding and paternity leave, all for the period for which the training contract runs
COMMENTS	Within 5 years of graduating or completing studies, or within 7 years if the contract is formalised with people with disabilities. The minimum salary is 60% and 75%, during the first or the second year of the contract's validity, of the fixed salary in the collective agreement for a worker with an equivalent function
TYPE	Trainee and apprenticeship contract
PURPOSE	Contract targeted at young people who lack acknowledged vocational qualification
DURATION	Minimum of 1 year and maximum of 3 years, with the possibility to modify the duration by collective labour agreement from 6 months to 3 years. Sick leave, leave due to risk during pregnancy, maternity leave, adoption or fostering, leave due to risk during breastfeeding and paternity leave, all for the period for which the training contract runs
COMMENTS	Even if there are special cases, as a general rule, this contract can be formalised with workers aged between 16 and 25 years who do not have an acknowledged vocational qualification or certificate of professionalism to enter into a work experience contract. Compensated employment at a company must be alternated with training activities at a vocational training centre or at the academic institution. On termination of the temporary contract, because the contract has ended (with the exception of training contracts and contracts to substitute employees entitled to return to their job), the employee has the right to receive severance payment.
Trial period	Trial periods can be established, but cannot exceed 6 months in the case of qualified technical personnel and 2 months in all other cases. At enterprises with <25 workers, the trial period must be ≤3 months in the case of workers who are not qualified technical personnel.

RDL 3/2012 introduced a new kind type of contract, the indefinite-term employment contract, in support of entrepreneurs; this includes a trial period of 12 months.

Table 11

SEVERANCE PAYMENT (Days of salary/years of service)	AGREEMENTS DATED
Nine	From 1-1-2012 onwards
Ten	From 1-1-2013 onwards
Eleven	From 1-1-2014 onwards
Twelve	From 1-1-2015 onwards

Working hours

The working day generally starts between 08:30 and 09:30 and lasts until 17:30 or 19:30, depending on the firm's lunch policy (1 or 2 hours).

The length of the working day is agreed on in collective labour agreements or in individual employment contracts. The maximum working week is 40 hours, calculated on an annualised basis. This working day length can be distributed in an irregular way; if there is no agreement, the company can distribute the working day length by 5%.

There is a minimum rest period of 1.5 days per week and a minimum annual vacation allowance of 30 calendar days plus the public holidays defined by central government, autonomous community governments and municipal authorities.

Workers are entitled to paid leave in the event of marriage, union work, fulfilment of unavoidable public or personal duties, breastfeeding, childbirth, moving home (principal residence), accident or serious illness, etc.

Incentives to promote employment

RDL 3/2012 has created a new type of indefinite-term employment contract in support of entrepreneurs aimed at promoting stable employment while encouraging entrepreneurship, and available to companies with <50 workers. The use of this contract allows the employer to obtain important tax and social security reductions.

Senior management contract

The special labour relationships of senior executives are regulated separately and there is a great deal of flexibility when it comes to drawing up employment contracts.

Senior executives can be dismissed without cause (i.e. contractual withdrawal by employer) with a minimum of 3 months' notice, in which case executives are entitled to an indemnity of 7 days pay per year worked, up to a maximum of 6 months' pay. Senior executives may also withdraw from a contract with a minimum of 3 months' notice.

Acquisition of a business

When a business is transferred, in the 3 years following the transfer both the transferor and the transferee are jointly and severally liable for any labour obligations arising before the transfer. The new employer acquires the labour and social security rights and obligations of the former employer, including pension commitments and any other additional employee welfare obligations that were incumbent on the former employer.

All employers, workers, self-employed workers, members of manufacturing cooperatives, domestic staff, military personnel, and officials who live and/or work in Spain, must register with, and are obliged to pay contributions to, the Spanish social security system. Contributions even continue to be made on behalf of unemployed workers.

The Spanish social security system comprises two different types of programme:

- General social security programme, which includes all employees and also certain special cases, such as that of artists, professional soccer players, sales representatives, domestic personnel (special system), agricultural workers, rail workers and bullfighters
- Special social security programmes for farmers, seamen, self-employed workers, government officials (civil and military), coalminers, and students.

Social security contributions

Social security contributions are paid between the employer and the worker, and depend on the employment and occupational category.

Employers' total contributions are increased by contingencies for occupational accidents or diseases, depending on how hazardous the employee's job is.

In 2012, the general employer contribution was 29.9%, while the employee contribution was 6.35%. These rates were applied to certain minimum and maximum contribution bases (depending on the worker's occupation category), with the maximum contribution base being €3,262.50.

Temporary employment agencies

The activities of temporary employment agencies are regulated by law. Since RDL 3/2012 entered into force, temporary employment agencies have been allowed to operate as placement agencies, when fulfilling the established statutory and regulatory requirements for such companies.

Visas, work and residence authorisations and permits

Spanish immigration legislation makes a distinction between foreigners subject to the European Community regime, and foreigners subject to general immigration rules.

Nationals of EU member states

Nationals subject to the European Community regime, from other EU member states, the European Economic Area or Switzerland, do not need an employee or self-employed work authorisation, and have the same labour rights as Spanish citizens.

Foreigners belonging to this group who will reside in Spain for ≥3 months should apply personally for their registration in the Foreigners Central Registry, within the 3 months after their arrival. Relatives who are not citizens of the above-mentioned countries should apply for a special residence card.

Under Order PRE/2072/2011 of 22 July 2011, the transitional period for access to the Spanish job market for Romanian citizens has been reactivated. The new regulation determines that Romanian citizens who intend to come to Spain to work as employees must apply for a prior permit based on the existence of an employment contract. This measure will be reviewed at the end of 2012, at which time a decision will be made on whether or not to end the transitional period.

Nationals from non-EU countries

Foreigners not qualifying for the European Community regime require authorisation to live and work in Spain, as well as a special work visa. Employers wishing to hire non-EU nationals must obtain prior administrative authorisation. However, the lack of a work authorisation does not invalidate an employment contract with regard to the foreign worker's rights, nor does it prevent the foreign worker from obtaining any benefits to which they may be entitled.

Moreover, there is a special procedure for authorising foreigners to enter, reside and work in Spain where their work is for employment-related, economic or social reasons, or the purpose of which is the performance of research and development or teaching work that requires a high level of qualification, or artistic performances of special cultural interest. This special procedure incorporates specific, more flexible mechanisms for the processing of work and residence permits (for both ordinary and cross-border employees) for qualified workers and for any family members who simultaneously process their permits.

To qualify, enterprises must meet certain requirements relating to the number of employees, volume of the net sales value or net equity and the volume of investment in Spain, or belong to certain strategic sectors.

Lastly, of interest is the approval of Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a member state and on a common set of rights for third-country workers legally residing in a member state. This Directive will have to be transposed and incorporated into national legislation before 25 December 2013. The UK, Ireland and Denmark do not take part in the adoption of the Directive and therefore are not bound by it.

There are various types of work authorisation, depending on the type of work and its duration (Table 12).

Table 12. Types of work authorisation.

Type of authorisation	Scenario	Duration
Employed work and residence authorisation	Ordinary work authorisation for foreign employees with a steady work situation in Spain	1 year, renewable for 2-year periods
Self-employed work and residence authorisation	Ordinary work authorisation for self-employed foreigners with a steady work situation in Spain	1 year, renewable for 2-year periods
Cross-border workers	Employed or self-employed work authorisation for workers residing in a frontier area of a state to which they return every day. This validity will only apply for the autonomous community where the worker resides	The initial period has a minimum of 6 months and a maximum of 1 year. It may be extended at the end of its validity, taking into account that each extension can never exceed 1 year
Fixed-term employed work authorisations	The following activities or occupations are authorised: seasonal work, project work or services, senior management, professional sportsmen or women, artists, and vocational training and work experience	The length of the contract, or activity, with a maximum of 1 year (except for seasonal contracts up to a maximum of 9 months in a 12-month period)
Cross-border assignments	Authorisation for foreign employees of an enterprise established in a non-EU or non-EEA country temporarily assigned to Spain for the following reasons: • Contract whereby a foreign enterprise provides services to an enterprise established in Spain • Temporary assignment of workers between enterprises of the same group (including for training purposes) • Temporary assignment of highly qualified workers to supervise or advise on project work or services performed by Spanish enterprises abroad	Duration of the assignment with a maximum of 1 year. It may be extended by 1 year or for the period set in the international agreements that Spain has signed, if there are identical conditions that those demanded to get the initial authorisations

Type of authorisation	Scenario	Duration
Special regime for researchers	Granted for foreign researchers whose stay is exclusively for research purposes, framed as a reception agreement signed with a research organisation	The duration of the initial authorisation is 3 months, with a maximum of 5 years. It is renewable annually, except in the case of long-term residence authorisation, whenever the holder still meets the requirements established for the initial authorisation
Residence and work of highly qualified professionals in possession of an EU blue card	Granted to those who hold higher education qualifications (i.e., deriving from higher education lasting ≥3 years) or, exceptionally, have a minimum professional experience of 5 years that could be considered comparable Holders of EU blue card who have resided for ≥18 months in another EU country may obtain this authorisation	Duration of 1 year, renewable for biannual periods, unless a long-term residence permit is applicable

Foreigners who have been legally residents in Spain on a continuous basis for 5 years may, having renewed their employed or self-employed work and residence authorisations, obtain a long-duration residence authorisation. Once they have this authorisation, they must apply for a permanent identity card, renewable every 5 years.

Basic outline of the employed work authorisation application procedure (note that the procedure in the *La Unidad de Grandes Empresas y Colectivos Estratégicos (UGE-CE)*, a special division for larger companies under the Ministry of Employment and Social Security, is easier and faster):

i. Preliminary phase: analysis of national job situation. The SEPE (Public Service for National Employment Public) publish a list of hard-to-fill jobs

ii. Work authorisation application submitted by employer to competent agency: Government Representative's Office, sub-office or Directorate-General of Immigration

iii. Authorisation granted; employer notified by competent agency

iv. Visa application. Foreigners must submit visa applications to the Spanish Consulate in their state of legal residence within 1 month from notification by employer of authorisation

v. Arrival in Spain.

Note that:

- Foreigners must enter Spain while their 3-months visa is valid
- Employer must register foreigners with the social security system within 3 months of entry
- Employer must register the contract with the Public Service of Employment
- Foreigners must apply for residence card within 1 month after entry registration within the Social Security system.

Source: Labour Guide, compiled by the Ministry of Labour and Immigration.

Taxation System

Spain is organised into 17 regions (autonomous communities), which may have one or more provinces, and two autonomous cities (Ceuta and Melilla). There are different levels of administration: central government, autonomous communities (regions) and local authorities. Each can impose taxes according to their specific powers and can apply different forms of taxation for the purpose of collecting public revenue (rates, excise duties and taxes).

Most autonomous communities (regions) have their own general tax system. Within these tax systems, they have power over inheritance or gift tax, as well as tax on transfers and documented legal acts. The autonomous communities can also apply their own taxes within the limits laid down by law. Some autonomous communities have introduced environmental protection or fuel consumption taxes.

There are also special tax systems in certain autonomous communities: for historical or geographic reasons, Navarre and the Basque Country, the Canary Islands, and Ceuta and Melilla have evolved their own tax systems.

Taxes

The main direct taxes applicable in Spain are:

- Corporate income tax
- Personal income tax
- Non-resident income tax

The main indirect taxes applicable in Spain are:

- VAT
- Transfer and stamp tax

Companies

Corporate income tax applies to entities that are tax resident in Spain. Tax-resident entities are taxed on their worldwide income. An entity is considered resident in Spain for tax purposes if it has been formed in accordance with the laws of Spain, or if it has its registered office, or its effective place of management, in Spain.

In general: tax base = income/loss per books ± certain non-accounting adjustments provided for in the Corporate Income Tax Law.

In Spain, the corporate income tax rate is 30%. Lower tax rates apply in certain cases, such as in the case of enterprises of a reduced size.

The tax principles governing the recognition of revenues and expenses generally coincide with accounting principles. As a general rule, assets must be valued under the methods provided in the Commercial Code. Despite this, 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. Nevertheless, in certain cases, market valuation (i.e. valuation on an arm's-length basis) must be applied for tax purposes.

The tax authorities may value for corporate income tax purposes transactions between related entities at their normal market value regardless of whether the value agreed on by the parties leads to lower taxation in Spain than that which would have been the case had the normal market value been used, or to deferral of such taxation.

Market value between related entities is determined by applying OECD methods. Advance pricing arrangements (APAs) can be reached with the tax authorities.

The taxpaying company is obliged to value its transactions with related parties at their normal market value, and must make available to the tax authorities documentation supporting the valuation made and relating to general transactions with related parties (although the regulation establishes exceptions to this obligation).

The tax deductibility of expenses depends on the fulfilment of certain requirements. Expenses that are not deductible include dividends, expenses from accounting for corporate income tax, gratuities, fines or penalties, and expenses incurred in transactions with persons or entities resident in tax havens (unless the payer can prove that the expense arose from a transaction effectively performed).

Modifications on the tax deductibility of expenses were introduced by RDL 20/12 of 13 July 2012:

- The net minimum deductible financial expense of €1 million is maintained. However, this amount must now be pro-rated according to the length of the tax year, if shorter than a calendar year
- The limitation will also apply to companies not included in a group of companies as defined by Article 42 of the Code of Commerce
- As with credit entities, an exception is made for insurance entities to which this rule does not apply
- This rule is not applicable to entities in the year in which they are extinguished, with some exceptions.

In general, amortisation/depreciation is only a tax-deductible expense if there is an actual decline in value that is recorded for accounting purposes. If the taxpayer uses the amortisation/depreciation rates established in the official tables (or in other regulated methods), there is no need to prove that there is an actual decline in value.

As for capital gains, gains on transfers of assets are treated as any other item of income. If certain requirements are met, a 12% tax credit can be taken on gains obtained on transfers of tangible fixed assets, intangible assets or long-term investments, effectively reducing the final tax rate to 18%.

There are also tax credits for certain activities, including those relating to R&D and technological innovation.

In 2013 and 2014, the tax deduction of the depreciation of tangible assets will be limited to 70% of the maximum rates permitted in the CIT (corporate income tax) regulations. This measure will only apply to large companies.

Tax credit applies for investments made in tangible assets used to protect the environment, consisting of facilities that prevent air or noise pollution from industrial facilities, or pollution of surface, ground or sea water, or that are used to reduce, recover or treat the investor's own industrial waste.

Spain also offers tax credits to avoid domestic and international double taxation, as well as a highly attractive dividend and foreign-source capital gains exemption system.

As a general rule, enterprises can offset their tax losses against income obtained by them in the tax periods ending in the following 18 years. This 18-year period for offsetting tax losses will also apply to losses that were outstanding at the beginning of the first tax period commencing on or after 1 January 2012.

RDL 20/2012 of 13 July 2012, applicable for tax periods commencing in 2012 and 2013, has limited the offset in those years of tax losses generated in previous years by entities whose turnover in the 12 months preceding the start of the tax period exceeds €20 million:

- If the entity's turnover in those 12 months is at least €20 million, but below €60 million, the offsettable losses will be limited to 50% of the tax base prior to that offset
- If the entity's turnover in those 12 months is at least €60 million, the offsettable losses will be limited to 25% of the tax base prior to that offset.

Consolidated tax regime

Certain groups of companies may be taxed under the consolidated tax regime. To qualify for the regime, the parent company must have a holding in its subsidiaries of ≥75%. (Law 11/2009 of 26 October 2009, which regulates the legal and tax regime of real estate investment listed corporations, introduced a reduction of the minimum participation from 75% to 70% for a parent in its subsidiaries in respect of the consolidation of accounts if the subsidiary is a listed company. This change applies for taxable periods starting 1 January 2010.)

Other specific incentives and special tax regimes that investors may find attractive

- Foreign-securities holding entities (ETVEs), also known as 'Spanish holding companies': the regime governing these entities is one of the most competitive in the EU, since, unlike other regimes, under certain circumstances, not only is a Spanish holding company not taxed on its foreign-source income and/or gains, but also it is not taxed on the income it distributes to its shareholders, or on the gains arising when a shareholder sells their stake in the holding company
- Tax neutrality regime for restructuring transactions, along the same lines as in the other EU member states

- The Canary Islands tax regime: the Canary Islands offer a number of tax benefits aimed at compensating for the disadvantages caused by insularity and distance from mainland Spain (e.g. certain reductions in the tax base, substantial tax credits, and a special zone in which the tax rate for companies is 4%)
- Reduction in revenues from certain intangible assets: subject to certain conditions, only 50% of revenue from licences or work patents, designs or models, plans, secret formulas or processes, or information concerning industrial, commercial or scientific experience, shall be included in the tax base.

Accelerated depreciation will be allowed for investments in new property, plant and equipment and investment properties used for economic activities, received by the taxpayer in the tax periods commenced in 2012, 2013, 2014 and 2015 (Additional Provision No. 11 regulating the unrestricted depreciation of new fixed assets has been amended by RDL 13/2010 of 3 December 2010 on procedures in the area of tax, labour and deregulation to promote investment and job creation, effective for tax periods commencing on or after 1 January 2011, removing the employment maintenance requirement) without needing to maintain employment. The deduction will not be conditional upon whether it has been recognised in income.

Revaluation of tangible assets and financial leased assets included in the last balance approved by the business will be allowed in 2013, in order to adapt their value for accounting purposes to their real value. The revaluation will be voluntary, and the accounting surplus resulting from the revaluation will be subject to a one-off tax of 5%. The increase in equity due to the revaluation will be booked as a revaluation reserve and, afterwards, the reserve can be used to set off losses, to increase the share capital or to increase the voluntary reserves.

Individuals

Personal income tax applies to individuals who are tax resident in Spain. Personal income taxpayers are taxed on their worldwide income.

A taxpayer is considered to reside in Spain if they spend >183 days in Spain during a calendar year, or if their principal centre or the base of their business/professional activities or economic interests is in Spain.

Taxable income is made up of a general base and the so-called 'savings base', which consists of the positive balance resulting from income from movable capital (basically dividends, interest – except those received from related entities, when certain conditions are not fulfilled – and the monetary return or payment in kind on capitalisation transactions and life or disability insurance contracts), and the positive balance resulting from capital gains/losses deriving from the transfer of assets. The savings base is taxed at 19% on the first €6,000 of the net savings tax base and 21% thereafter.

However, for 2013, the applicable rates will be as follows:

- 21% for the first €6,000 of net taxable savings income

- 25% for between €6,000.01 and €24,000 of net taxable savings income
- 27% for net taxable savings income of €24,000.01 onwards.

The general base consists of the balance resulting from adding together all other income (from salary, business or professional activities, rent, etc.), and/or the positive balance resulting from gains/losses not included in the savings base (e.g. prizes). As for the tax rates, there is a general scale and a regional scale; the minimum combined rate for income up to €17,707.20 is 24%, while the marginal combined rate for income from €175,000.20 and above is 45% (which could be slightly higher depending on the legislation of the corresponding autonomous community). However, the maximum marginal combined rate for 2013, for income from €300,000.00 and above, will be 52% while the minimum combined rate for income up to €17,707.20 will be 24.75%.

There are tax credits for buying a principal residence, for income and/or gains obtained in Ceuta and Melilla, for investments in and expenses in respect of assets of cultural interest, and for certain economic activities.

Spanish personal income tax legislation establishes a very large exemption for salary income earned by workers who work abroad, but remain tax resident in Spain. This exemption applies to up to €60,100 per year, provided that certain requirements are met.

RDL 20/2012 of 13 July 2012 modifies RDL 35/2006 by increasing certain withholding and payment on account rates as of 1 September 2012. This applies to income from professional activities and work income derived from teaching courses, conferences, round-table discussions, seminars and similar, or derived from the production of literary, artistic and scientific works, provided that the right to use them has been ceded. The general withholding and payment on account rate for this type of income was 15% until 31 August 2012. As of 1 September 2012 and until 31 December 2013, this rate has increased to 21%. Finally, beginning on 1 January 2014, the applicable rate will be 19%.

Non-residents

Individuals and entities not resident in Spain are liable for non-resident income tax on the income and/or gains they obtain in Spain. The key to ascertaining how non-residents will be taxed in Spain lies in whether or not the non-resident has a permanent establishment (PE) in Spain.

- With a PE: taxpayers obtaining income and/or gains through a PE in Spain are taxed on all the income and/or gains attributable to the PE. Broadly speaking, the PEs in Spain of non-resident individuals or entities are taxed on their net income just like companies resident in Spain, and are subject to the same tax rate (in general, 30%). There is an additional 19% tax on amounts transferred abroad out of income obtained by PEs of non-resident entities, although there are relevant exceptions. RDL 20/2011 of 30 December 2011 has raised the tax rate to 21% for fiscal year 2013
- Without a permanent establishment: taxpayers obtaining income and/or gains without the intermediation of a PE are taxed separately on each full or partial accrual of income and/or gains obtained in Spain.

There are certain exemptions, including:

- Interest and other income from the transfer of own capital to third parties, as well as capital gains from real estate, obtained without the intermediation of a PE by residents of other EU member states (except tax havens)
- In certain cases, dividends distributed by a Spanish subsidiary to its EU parent company
- Income paid as a result of the international sale of goods
- Royalties paid by a Spanish resident company (or by a permanent establishment in Spain of a company resident in another EU member state) to an 'associated' company resident in another EU member state (or to a permanent establishment of an EU resident company in another member state).

The tax rates applicable to non-residents without a PE are shown in Table 13 (notwithstanding the tax treaties signed by Spain and certain special rules where the non-resident resides in an EU country).

Table 13. Tax rates applicable to non-residents without a permanent establishment in Spain.

Type of income	Rate (%)
General (including royalties)	24*
Dividends	19
Interest	19
Gains from transfer or redemption of units/shares in the capital or equity of collective investment institutions	19
Income from reinsurance transactions	1.5
Income from air or maritime shipping entities	4
Capital gains	19*
Seasonal foreign workers	2

* Notwithstanding, for fiscal year 2013, the standard tax rate has been increased from 24% to 24.75% and the tax rate applicable to dividends, interest, and capital gains is raised from 19% to 21% (change introduced by RDL 20/2011 of 30 December 2011).

Non-residents must appoint a Spanish-resident individual or legal entity as their tax representative in certain cases.

Spain has signed tax treaties with numerous countries – see the *Fiscalidad Internacional* section at www.aeat.es.

Tax regime for inbound expatriates

Spanish personal income tax legislation contains a highly attractive regime for personnel assigned to Spain by multinational enterprises, since it allows individuals who become tax resident in Spain as a result of their assignment there to elect to be taxed either under the personal income tax rules or under the non-resident income tax rules during the tax period in which their tax residence changes and for the next five tax periods. If they choose the latter, expatriates are only taxed on income and/or gains considered to have been obtained in Spain, at a standard rate of 24% (24.75% in 2013).

The requirements to qualify for this regime are:

- The inbound expatriate must not have been resident in Spain during the 10 years prior to their assignment to Spain
- The assignment to Spain must be the result of an employment contract
- The work must actually be done in Spain
- The work must be done for a company or entity resident in Spain, or for a PE in Spain of a non-resident entity
- The salary income from the work must not be exempt from non-resident income tax
- The foreseeable compensation under the employment contract in each of the tax periods in which this special regime applies must not exceed €600,000 per year (amendment inserted by 2010 General State Budget Law 26/2009 of 23 December 2009, not applicable if the expatriate came to Spain before 1 January 2010).

VAT

On 1 September 2012, the standard rate rose from 18% to 21% (change introduced by RDL 20/2012 of 13 July 2012 on measures to ensure budget stability and enhancing competitiveness); this applies to most supplies of goods and services, although a reduced rate of 10% applies to some. There is also a 'super-reduced' rate of 4% that applies, for instance, to essential food items, books, newspapers and magazines, or to certain government-subsidised housing. Other transactions (such as financial and insurance transactions, medical services or educational services) are exempt.

VAT does not apply in the Canary Islands, Ceuta or Melilla. The Canary Islands have a VAT-based indirect tax, the Canary Islands general indirect tax (IGIC) of 7%, which is charged on supplies of goods and services on the Canary Islands by traders and professionals, as well as on imports of goods. Another indirect tax applies in Ceuta and Melilla on production, services and imports.

In certain cases, transactions with related entities must be valued for VAT purposes at their normal market value.

In addition, certain groups of companies may be taxed under a new consolidated tax regime for VAT purposes. To qualify for the regime, the parent company must have a holding (direct or indirect) in its subsidiaries of ≥50%.

Transfer and stamp tax

This tax is levied on a limited number of transactions (Table 14).

Table 14. Rates of transfer and stamp tax.

Type of transaction	Applicable rate
Corporate transactions, such as the formation of companies, and capital increases or reductions at companies, contributions made by shareholders that do not imply a capital increase, etc.*	1%
Transfers of real estate†	6%
Transfers of movable property and administrative concessions	4%
Certain rights in rem	1%
Certain public deeds†	0.5%

* Law 4/2008 eliminated the cases in which tax is levied on mergers, spin-offs, asset contributions and exchanges of securities, these transactions being defined in accordance with Articles 83 and 94 of the Corporate Income Tax Law (neutral tax regime).

† Regional governments are entitled to apply different rates in certain cases.

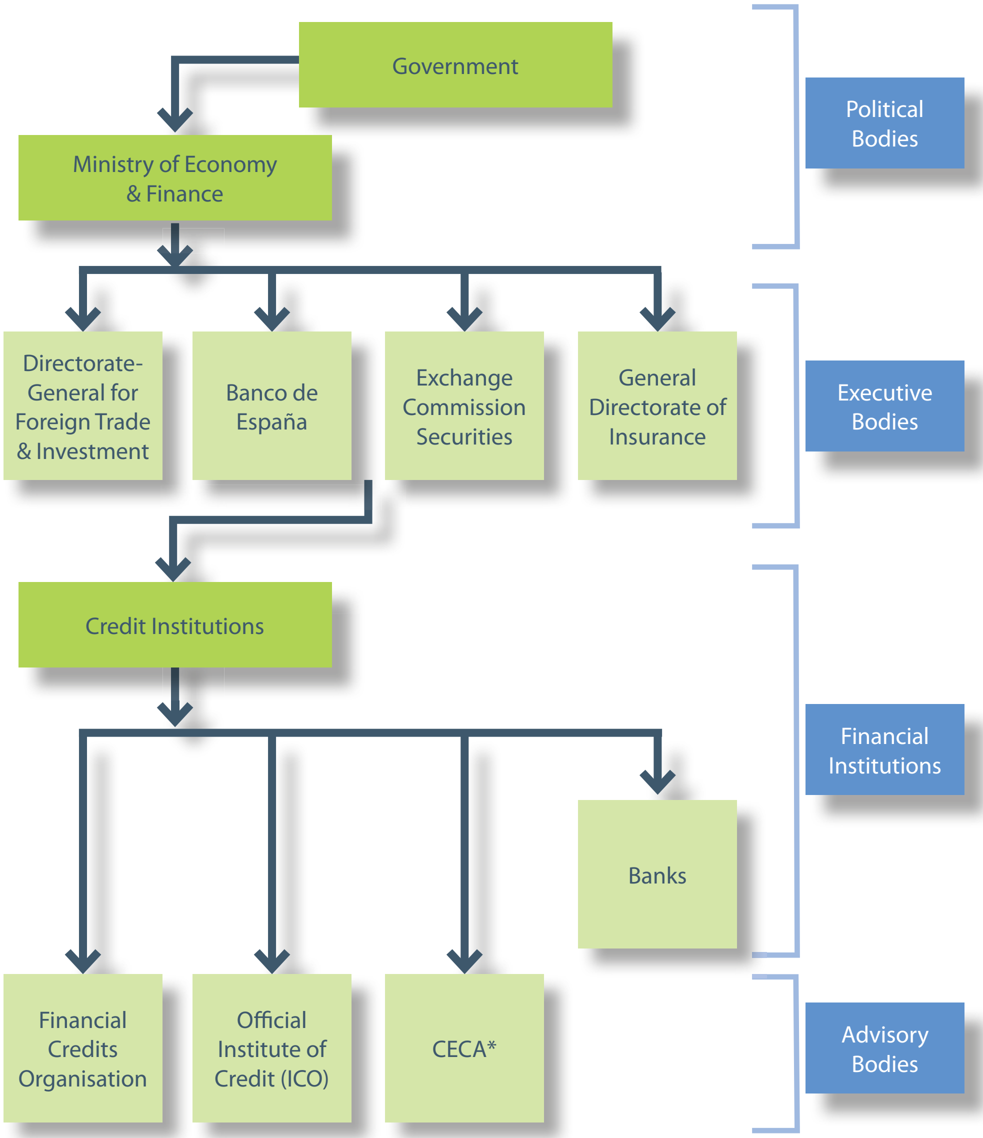
Transfers of shares in Spanish companies do not usually attract indirect taxation, unless >50% of the capital stock is transferred (or shares increasing the stake in certain entity when the acquirer already has >50%) and >50% of the assets (as defined in the applicable law) of the company consist of real estate in Spain. In this case, the transaction will be treated, for indirect taxation purposes, as a transfer of real estate subject to the transfer tax rate determined by the regional government where the asset in question is placed.

If the seller is a company or a private real estate developer, transfers of buildable land lots or first supplies of buildings are subject to VAT. In the case of second and subsequent supplies of buildings by companies, traders or professionals in the course of their usual activities, they can elect to make such supplies subject to transfer tax or VAT, as long as certain requirements are met.

The formation of companies, the increase in their capital, the contributions made by shareholders which do not entail a capital increase, and the relocation to Spain of the company's place of effective management or of the registered office where neither one nor the other had previously been located in an EU member state, are exempt from transfer tax under the 'corporate transactions' heading (modification by Law 13/2010 of 3 December 2010 on procedures in the area of tax, labour and deregulation to promote investment and job creation).

Banking and Finance

Figure 1. Structure of the Spanish banking system.



* CECA (Confederación Española de Caja de Ahorro) is a credit institution giving credits to the saving financial institutions and other agencies.

The Ministry of Economy and Finance conducts its business through the executive bodies, financial institutions and advisory bodies, which exercise the functions of inspection and control and have normative and sanctioning powers (see Figure 1):

- Banking is headed by the Banco de España, which has jurisdiction over financial institutions
- Insurance is controlled by the General Directorate of Insurance (Dirección General de Seguros), which has jurisdiction over all the insurance entities
- Securities come under the jurisdiction of the Exchange Commission Securities (Comisión Nacional del Mercado de Valores), which regulates the stock market

As the designated central bank, the Banco de España is responsible for the regulation and supervision of the financial system. In accordance with the provisions within the European Union, Spain acceded to monetary union in 1994, so the Banco de España is included in the European System of Central Banks.

Since extensive reformation of the Spanish banking system in 2011, the country has at least seven commercial banks solidly positioned in the financial market and complying with solvency regulations, and at least 17 subsidiaries of foreign entities in Spain, while another 60 bodies have been encouraged to open branches in Spanish territory. Spain has a large and liberal financial system whose regulation is not characterised by excessive regulatory oversight of its operations. Within this culture, the banks can offer extremely competitive products, as there is flexibility to adapt to the specific needs of each client.

Opening a current account for a business entity

The legal representative of the company must open a current account in their name, and are usually required to supply the following:

- Identity card
- Recent picture
- Documents confirming economic activity and solvency (incomes, assets, debts)
- Proof of residence in Spain

Applicants must also register their official signature and sign an agreement of general conditions for the current account.

Closing a current account

The bank account can be closed unilaterally by either party at any time.

If the owner of the current account decides to close it, the communication must be in writing, preferably addressed to the branch where the account was opened. The document stamped by the bank must be kept until the process is finalised.

The bank has two working days to effect the account closure. Although the account holder can continue a debt with the bank, before closing an account it is worth checking that there are sufficient funds to cover any payments pending, and cancelling any direct debits and standing orders.

Banking Facilities

Banking Facilities	**Non-Banking**
i. Accounts	i. Services
–– Current accounts	–– Advisory services
–– Savings accounts	–– Fiduciary services
–– Multi-currency accounts	–– Custodial services
ii. Cards	ii. Insurance agents
–– Debit cards	iii. Stockbroking
–– Credit cards	iv. Wealth management
iii. Time deposits	
iv. Loans and advances	
v. Escrow account services	
vi. Sales and purchases of foreign currencies	
vii. Multi-currency checks	
viii. Internet banking book	
ix. Mobile banking	
x. Services	
–– Remittance services	
–– Trade finance services	
xi. E-commerce service	

Key Sectors

Spain has at least six key sectors for which several grants and incentives are available.

Biotechnology/Pharmaceutical

A solid scientific base, a highly qualified workforce, state-of-the-art and innovative infrastructures, an integrated healthcare system and strong government support make the Spanish Biotechnology/Pharmaceutical sector one of the most dynamic and competitive emerging industries in the world.

Directly and indirectly, biotech accounted for 0.8% of Spain's GDP in 2007. Forecasts put this figure at 1.6% of GDP in 2012. Business creation has grown significantly in recent years: every year, public institutions create between 10 and 12 new companies. Factors involved in this growth include:

- International cooperation. In 2010, 143 partnerships were formed. Of those that set up partnerships with Spanish biotech companies, other European countries and the USA account for 18% and 6%, respectively
- Spain is the leader in agro-biotech in the OECD. With 0.7% of cultivatable land used for GMO (genetically modified organisms), Spain has grown 80% of European GMO
- Cost-effective clinical testing. On average, the cost per patient of clinical testing in Spain is 30% less than other markets such as the USA. There are currently about 3,000 trials underway at Spanish hospitals, making Spain fifth in clinical testing in the EU28
- An established pharmaceutical industry in Spain. In 2010 there were about 450 pharmaceutical companies and account for 20.3% of all private R&D spending in Spain.

Why Spain?

- *Solid basic science*. Spain is the ninth world scientific power, and ranks fifth by scientific production in the EU15
- *Integrated healthcare system*. Spain has an extensive network of 800 hospitals, both public and private, backed by leading-edge research centres. The system is ideal for translational medicine and discovering new drugs and advanced therapies
- *Emerging biotech industry*. Biotech companies grow faster than in other countries, rising by 239% in the period 2000–08
- *Strong government support*. The Spanish government offers low-interest credits and incentives during the start-up and growth phases of life science companies
- *Excellent infrastructure for innovation*. With exponential growth of science and technology parks (nearly 80), research centres and institutes of technology, Spain's infrastructure also incorporates the latest technology for life science projects

- *Highly qualified workforce*. In some areas of Spain, the percentage of workers with postgraduate qualifications is higher than the European average. There is a surplus of talent for competitive and innovative projects
- *Favourable cost–benefit ratio of human capital*. The cost per hour is below average for EU28. While salaries are lower, the attraction of working on scientific or biotech projects is high because there are few innovative jobs.

Renewable energies

Spain is a world leader in the technological and industrial development of renewable energies. Its leadership position has attracted a large number of foreign companies from the renewable energy sector.

Why Spain?

Shortly after the second international oil crisis, RDL 82/1980 on energy conservation was enacted, representing the start of the development of renewable energies in Spain. Since then, comprehensive legislation (including Electricity Sector RDL 54/1997, which deregulated the electricity market in Spain and established that 12% of primary energy demand had to be met using renewable sources by 2010) has given rise to a sustained support framework for these sources of energy, which has boosted investor confidence and enabled developers and equipment manufacturers to procure the financing required to make significant investments.

The Ministry of Industry is promoting the 'Renewals Made in Spain' project through the Institute for Energy Diversification and Savings (IDEA), which has one clear objective: to publicise around the world the strong presence of renewable energies in Spain, the high degree of development achieved by these technologies, and the leadership of Spanish companies and organisations, which has made this possible. The programme covers:

- Wind Power
- Solar Thermoelectric
- Solar Photovoltaic
- Biomass
- Biogas
- Biofuels
- Small Hydro
- Marine Energy
- Geothermal
- Associations

Automotive

The automotive sector is of great importance in the Spanish economy, producing a turnover of 6.1% of the GDP, employing 9% of the working population and representing 18% of the national exports of goods and services.

The Spanish automotive industry employs a high number of qualified workers, many in R&D. Spain has important automotive clusters and technological centres. Spanish universities have research groups that specialise in various aspects of the development of motor vehicles.

Spain holds an outstanding place in the European ranking of manufacturing by number of vehicles, being the second European producer of passenger cars and first of industrial vehicles. Spain is ranked ninth in the world for vehicle production.

Why Spain?

Most of the world's main vehicle manufacturers are present in Spain, with 17 high-output production plants. Spanish manufacturers have invested in the modernisation of processes for the production of new models, including electric-powered vehicles. Their high productivity and specialisation makes these Spanish plants leaders in the production of low- and medium-range vehicles; some are ranked among the top 10 in Europe.

Environmental

The environmental sector is difficult to measure, given the variation in definitions and methodologies used (the OECD, for example, includes renewable energies). Nonetheless, the sector in Spain is believed to be worth €11 billion and the Observatory of Sustainability in Spain (OSE) estimates that it employs 420,000 people (excluding those who work in renewable energies), of whom 140,000 are employed in waste management and a further 58,000 in waste water treatment.

There are around 2,000 companies operating in the environmental sector in Spain, most of which are small and medium-sized. However, a handful of powerful Spanish civil engineering companies dominate the national market and have expanded internationally.

Why Spain?

- The Spanish government applies a corporation tax deduction of 2% for companies that have introduced measures to reduce emissions to air, soil or water
- Spain has passed a pioneering regulation for energy efficiency
- Spain is renowned for its water treatment expertise and is a world leader in desalination
- The country must find waste treatment alternatives to its tradition of land-filling
- Spain is the cradle of revolutionary R&D projects for emission reductions, river restoration and numerous other areas of environmental concern. In 2011, via its Life+ Program, the EU awarded €85.8 million to 29 Spanish projects in a variety of fields such

as nature conservation, climate change, environmental policy, clean technologies and environmental Information and communication.

Aerospace

The aerospace sector is widely developed in Spain. The Spanish market reached a turnover of €5.6 million in 2008 and employed >36,000 workers. It is characterised by its high growth (an average of 11.6% in the last 10 years) and its significant investment in R&D, up to 10% of the industry's turnover.

The Spanish industry has a key role in European aeronautics development, both civil and military. The aeronautics companies established in Spain stand out in several fields, such as military transport and special mission aircraft, low pressure turbines, MRO (maintain, repair & operation) activities, air-refuelling aircraft and air traffic management.

Why Spain?

- Investment in R&D activities reached €800 million in 2009, representing 13.5% of the industry turnover and 9% of private investment in R&D in Spain
- The Spanish public sector has created several public R&D centres focused on the aerospace industry
- Spain has an increasing profile in international programs: Airbus Military and Eurocopter, as well as ITP, Aernnova and Alestis, are working in Spain
- Spain is a member of the European Space Agency (ESA) and takes part in its main programmes (such as Galileo and Copernicus), as well as EU space programmes
- The Spanish government has developed a Strategic Plan for the Aeronautical Industry. The budget for the R&D support instruments will increase to €550 million in 2016, in both loans and grants
- The government's Strategic Space Plan aims to make an average contribution to the ESA of €215 million/year.

Information and communication technologies

Information and communication technologies (ICT) play an increasing role in the promotion and development of economies and modern societies. Not only do they represent a strong sector with a high growth potential, but there is little doubt that they have a direct impact on the productivity and competitiveness of today's economy, laying the foundation for a new, knowledge-based growth model.

The development of the ICT sector in Spain occupies a key place in the international landscape, supported consistently by successive governments who share Europe's commitment to a harmonised introduction of technology modernisation policies. Local industry has been boosted by successive plans and strategies – such as Plan AVANZA, which was highlighted by the OECD as an example of ICT governance.

Spanish culture clearly acknowledges ICT as the fundamental tool for development. Spain meets all European guidelines, frequently ahead of time, and today offers a business environment that is homogeneous with its community partners and takes the lead on strategic projects for the European Digital Agenda.

For all these reasons, the ICT market in Spain has experienced one of the highest growths in Europe in the last decade, consolidating itself among the top five markets in the region. Although these activities have not been immune to the global crisis, this industry was worth over €104 billion in 2010. While this represents about 6% of the national GDP for that year, it benefits other economic sectors that generate an aggregate gross added value of >22% of the GDP.

The ICT industry accounts for half a million direct jobs in Spain, a figure that rises to 1.5 million if we include the indirect jobs created (approx. 7.5% of total employment). Following the same pattern as many other sectors, this industry is dominated by small and medium-sized enterprises. Thus, only 4% of the >30,000 companies active in the sector register >50 employees.

Being a strong consumer of technology, Spain currently leads the way in several ICT implementation fields, such as education or health. Ambitious new legislation for 2010–15 proposes the achievement of various indicators such as the implementation of e-government in all public administrations and complete digitalisation of the judicial system.

Why Spain?

- Spain's commitment, with its EC partners, to the European Digital Agenda
- Potential national clients: the existing demand for ICT products and services is mature, but with a high growth expectancy in some areas
- Maturity in technology and commercial practices, with highly developed local service providers that can act as a catalyst
- Experience in exporting services, opening interesting collaboration opportunities to access new markets (European Union, North Africa and Latin America), where Spanish multinationals are already well established
- Availability of skilled human resources, at a very competitive cost: >33,800 engineers graduate each year in Spain
- Ability to scale through Latin American resources
- Modern transport and telecommunication infrastructures, coupled with an extensive network of scientific and technology parks and higher education centres
- Strong government support, through specific sector plans, to all activities aimed at fostering the development of an information society
- Exceptional value–cost–risk alignment.

Living in Spain

Spain is well known (among other things) for its excellent quality of life, the open-minded character of its people and the wealth of opportunities on offer, both in the fields of education and culture and in the worlds of sport and leisure. Spain's highly diverse cultural heritage has produced its world-renowned cuisine. With a wide range of public and private hospitals and a buoyant housing market, combined with the security of an effective system of law enforcement, Spain is an ideal country in which to live and work.

Climate

Average minimum annual temperatures range from 2°C in January to 18°C in August, while maximum temperatures range from 13°C in January to 27°C in July and August. In the Canary Islands, temperatures range from a minimum of 17°C to a maximum of 25°C. With over 3,000 hours of sunshine a year, Spain is one of the warmest countries in Europe.

This agreeable climate makes Spain a highly attractive tourist destination, as well as an ideal location for buying a second home, particularly for retired people. Moreover, Spain's favourable climes are highly rated by foreign investors, particularly when it comes to deciding on a location for their factories or other workplaces.

Banks

Apart from the Spanish banks, many of which are ranked among the foremost in Europe (e.g. Banco Santander and BBVA), some major international institutions (e.g. Deutsche Bank, Barclays Bank, UBS), operate out of Spain, as do large investment banks.

Language and religion

Castilian Spanish is the official language of the Spanish state. Other Spanish languages are also official in the respective autonomous communities, according to their Charters of Autonomy.

Catholicism is the main religion, but Spain is a constitutionally secular state in which other religions peacefully coexist.

Leisure

Spain is the fourth most popular tourist destination in the world in number of tourists and the second in terms of earnings per tourist. With almost 8,000 km of coastline, it boasts a wide variety of sporting facilities and social events, all crowned by the diversity of its cultural heritage. Spanish beaches were awarded 603 Blue Flags in 2011.

Spain has a vast national network of libraries and museums, as well as a broad spectrum of leisure and entertainment activities to cater for all ages, including zoos, safaris and nature trails. Numerous theme parks have opened in recent decades, such as Terra Mítica in Benidorm, Port Aventura in Tarragona, Isla Mágica in Seville and Warner Bros Park in Madrid; many children's activities are focused on introducing them to science and the environment.

The Next Step

Contact Morison AC, S.L.P. to discuss your needs.

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