4

Tax system

SEKUENS | Agencia de Ciencia, Competitividad Empresarial e Innovación del Principado de Asturias

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This document summarises the main regulatory aspects which affect investments in Asturias. It is especially useful not only for those investors who are approaching the Asturian regulatory environment for the first time, but also for those who want to delve deeper into the most relevant aspects related with the establishment and development of a company in our region.

4 Tax system

4.1. Direct taxation

Taxation on the income of residents in Spain takes the form of two taxes, depending on whether they are natural persons (**IRPF - Personal Income Tax**) or companies (**IS - Corporation Tax**).

4.1.1. Personal Income Tax

The Personal Income Tax (IRPF), regulated by Law 35/2006 of November 28, on Personal Income Tax and Partial Modification of Laws on Corporate Income Tax, Non-Resident Income Tax, and Wealth Tax (LIRPF), as its name suggests, taxes the income of individuals, generally following a progressive scale.

Tax Object and Taxpayer

The object of the tax is the worldwide income of the taxpayer. The taxpayer is generally an individual who is a habitual resident in Spain. However, individuals who are Spanish nationals but habitual residents abroad may also be taxpayers if they meet certain criteria outlined in Article 10 LIRPF. For example, members of diplomatic missions or Spanish consular offices or those who have moved to a tax haven, with effects for the tax year in which the change occurs and the following four years, are considered taxpayers.

Habitual Residence

A person is considered to have their habitual residence in Spain when they meet any of the following three criteria:

i. Residing for more than 183 days during the calendar year.

ii. Having the primary base of their economic activities or interests, directly or indirectly, in Spain.

iii. Fiscal residence of the spouse and minor children (subject to proof to the contrary).

These criteria are alternative, meaning that meeting any one of them would make an individual a habitual resident in Spain. If none of them are met, the individual may be considered a taxpayer under the Non-Resident Income Tax.

However, individuals subject to the Non-Resident Income Tax residing in a European Union member state or European Economic Area country with effective information exchange can choose to be taxed as Personal Income Tax taxpayers if they have earned 75% of their worldwide income in Spain from labor and economic activities.

Once the requirements for habitual residence in Spain at the national level have been met, residence in Asturias will be determined according to the following criteria (Article 72 of the Personal Income Tax Law - LIRPF):

i. i. Residence for the greater number of days during the tax period (accounting for temporary absences). It is presumed to be where your habitual residence is located.

ii. Center of interests, understood as the territory where the majority of the Taxable Base of the Personal Income Tax (IRPF) is derived.

iii. Last residence declared for tax purposes under the Personal Income Tax (IRPF).

Unlike the criteria for determining habitual residence in Spanish territory, in this case, there is a priority order, with permanence being the preferred criterion, and the last declared residence being the one to follow if the previous ones are not applicable.

Special Regime for Impatriates (Article 93 of the Personal Income Tax Law)

The Personal Income Tax Law regulates a special tax regime, recently improved after the approval of Law 28/2022, of December 21, which promotes the ecosystem of emerging companies (Startup Law). This regime applies to workers, professionals, entrepreneurs, and investors who relocate to Spanish territory. It allows them to choose to pay taxes, during the tax period in which the taxpayer acquires tax residence in Spain and the following five years, based on the rules of the Non-Resident Income Tax (with some exceptions). Depending on the specific case, this option could be more beneficial for the taxpayer.

However, to apply this regime, certain requirements must be met, such as:

- Prior tax residence abroad for at least 5 years.
- Relocation due to an employment contract, or the acquisition of the status of administrator of a company, regardless of the percentage of ownership (unless the subsidiary is holding, meaning it does not engage in economic activities with production means and human resources, in which case a participation of less than 25% is required), or for teleworking (this circumstance will be considered met if the international teleworking visa provided for in Law 14/2013, of September 27, in support of entrepreneurs and their internationalization, is obtained), or for engaging in entrepreneurial activities under Article 70 of Law 14/2013, of September 27, in support of entrepreneurs and their internationalization, or for providing services to emerging companies by a highly qualified professional, receiving at least 40% of their total income.
- No income qualifies as obtained through a Permanent Establishment in Spain, except in the last two cases mentioned in the previous point.

Since 2023, the regime can also be applied to the spouse or parent of their children, children under 25, and children with disabilities regardless of their age, if they meet certain conditions.

The exercise of the option must be communicated to the tax administration by submitting Model 149 within a maximum period of 6 months from the start date of the activity indicated in the Social Security registration in Spain or in the documentation that allows, where appropriate, maintaining the legislation of the home country's Social Security, Article 116 of Royal Decree 439/2007, of March 30, approving the Regulations of the Personal Income Tax and amending the Regulations on Pension and Retirement Plans, approved by Royal Decree 304/2004, of February 20 (RIRPF). Requests submitted outside of this period will not take effect. The 6-month period does not depend on the moment when tax residence is acquired in Spain, although becoming a resident in Spain is a prerequisite to exercise the option.

Income from Economic Activities

Depending on their origin, there are different types of income (employment income, rental income, capital gains and losses, etc.). Among these income types, we have income derived from economic activities, defined as those that, arising from personal work and capital together or just one of these factors, involve the taxpayer's self-management of production means and human resources, or one of them, with the purpose of intervening in the production or distribution of goods or services.

Additionally, since 2015, income derived from an entity in which the taxpayer holds capital and arises from general professional activities will be classified as professional income when the taxpayer is

included, for this purpose, in the special Social Security regime for self-employed workers, or in a social security mutual fund that acts as an alternative to the aforementioned regime.

On the other hand, the leasing of properties is considered an economic activity only when at least one full-time employed person with a labor contract is used for its organization.

Finally, there are three methods for determining the net income from economic activities exercised by the taxpayer: normal direct estimation, simplified estimation, and objective estimation. It should be noted (especially for incentive purposes) that most of the Corporate Income Tax (IS) rules are applicable to these taxpayers.

Tax Period

As a general rule, the tax period corresponds to the calendar year. In these cases, the tax is due on December 31 of each year.

Tax Settlement Scheme

For tax calculation purposes, different types of income are classified into two groups: general income and savings income. The income from economic activities falls into the general income category. To obtain the General Taxable Base and the Savings Taxable Base, any applicable deductions must be subtracted. Once these are obtained, if applicable, the personal and family minimums are quantified and allocated to the general part, and if they exceed that, also to the savings part. At this stage, the minimums are only calculated and allocated; their specific application is made by deducting them from the gross tax.

The latter is the result of adding:

A. Applying the state and regional general tax scales (in this case, for Asturias) to the General Taxable Base and subtracting the result of applying these scales to the minimums.

B. Applying the state and regional savings tax rate to the Savings Taxable Base.

The regional tax scale applicable in Asturias to the General Taxable Base is established by Article 2 of Legislative Decree 2/2014, of October 22, approving the consolidated text of the legal provisions of the Principality of Asturias regarding taxes ceded by the State. However, the State does not grant Autonomous Communities the power to approve their own tax rates for the Taxable Savings Base, so the rate approved by the State for the regional segment will apply.

Next, deductions would be applied to determine the net tax. There are both state deductions and those specific to the Autonomous Community of the Principality of Asturias.

Advance Payments

These provide a way to prepay resources to the Treasury in anticipation of the final tax, simultaneously allowing taxpayers to spread the payment effort. These include withholding taxes, advance payments, and installment payments. All of these are deductible from the Gross Tax.

Tax Return Form and Filing Deadlines

Income Tax is filed annually by completing the Form 100 approved for each fiscal year by the Ministry of Finance and Public Function, and the filing deadline typically falls between the months of April and June each year, as determined in the Ministerial Order approving the form.

4.1.2. Corporation Tax

Corporation tax (IS) taxes the income obtained by entities that operate on the market.

Object of the Tax and Taxpayers

The object of the Tax is the worldwide income of taxpayers; the latter are, when they have their residence in Spain, entities with legal personality, whatever their form or name (except for civil partnerships which do not have a commercial purpose and which are taxed under the income attribution regime), as well as various entities. without legal personality (investment funds, UTEs, venture capital funds etc.).

Residence

Entities that meet any of the following requirements are considered residents in Spain:

i. Which have been incorporated in accordance with Spanish legislation.

ii. Which have their registered office in Spain.

iii. Which have their effective management office (management and control of activities) in Spain.

Furthermore, the Tax Administration may assume that an entity located in a territory classified as a tax haven has its residence in Spain when its main assets consist of assets located or rights that are fulfilled or exercised in Spain, or when its main activity is carried out in Spain, unless said entity certifies that its effective management and control occur in said country or territory, as well as that the formation and operations of the entity fulfil valid economic grounds and substantive business reasons other than the management of securities or other assets.

On the contrary, if it is not considered a resident in Spain, the entity may be regarded, where appropriate, as an IRNR *(Income tax for Non-residents)* taxpayer.

Taxable Income

The Taxable Income of the Tax may be determined based on three estimation methods: direct, objective and indirect.

Under the direct estimation regime (generally applicable), the Taxable Income for Corporation Tax will be formed based on the amount of the accounting profit/loss determined in accordance with commercial regulations, corrected in the tax adjustments (positive and negative) considered in the LIS, whether owing to differences in classification, valuation or imputation. Hence, solely for the sake of illustration and not limited to, some of the non-accounting tax adjustments that could be applicable are:

- Non-deductible impairments (positive)
- Non-deductible expenses (positive) [for example: fine]
- Imputation of income under the International Fiscal Transparency regime (positive)
- Unrestricted depreciation (negative)
- Obtaining dividends or transferring shares under certain circumstances (negative)

Offsetting of Negative Taxable Income (BINs)

The BINs from previous years may be offset by the positive income of the following tax periods without any time limit (since 2015), but with the quantitative limit of 70% of the Previous Taxable Income (this is the Taxable Income before applying the offsetting and capitalisation reserve of BINs). However, this latter limit will be 50% for those entities whose Net Turnover Amount (**INCN**) for the 12 months prior to the date on which the tax period begins falls between 20 (inclusive) and 60 million euros, and 25% when it is at least 60 million euros. In any case, this quantitative limit will not apply to newly created entities in the first three tax periods in which positive Taxable Income is generated prior to its offsetting.

However, with exclusive effects for tax periods beginning in 2023, the offsetting of BINs, within the tax consolidation group, has also been limited to 50% of the negative taxable income of the individual entities that are members of the tax group. With effects for the following tax periods, the individual BINs not included in the Taxable Income of the tax group by application of the above, will be integrated into the taxable income thereof in equal parts in each of the first 10 tax periods that begin in 2024, even in the event that any of the individual entities referred to is excluded from the group. Finally, if the tax group is terminated or lost, the individual BINs pending integration into the group's Tax Base will be integrated into the last tax period in which the group pays taxes under the tax consolidation regime.

In any case, BINs can always be offset in the tax period up to the figure of 1 million euros (unless the tax period has a duration of less than one year, in which case it will be carried out proportionally). In any case, the offsetting cannot result in a negative amount, having as a limit the actual Prior Taxable Income, with the rest of the BINs being left pending to be applied in subsequent years.

Finally, BINs cannot be offset when the following circumstances occur:

i. The majority of the share capital or the rights to share in the profits of the entity have been acquired by a person or entity or group of related persons or entities after the conclusion of the tax period for generating the BIN.

ii. The previous persons or entities must have had a stake of less than 25% at the time of the conclusion of the tax period to which the BIN relates.

iii. The acquired entity finds itself in any of the following circumstances:

   a. It has not carried out economic activity in the 3 months prior to the acquisition;
   b. It has carried out an economic activity in the 2 years following the acquisition which is different or additional to that carried out previously, which would determine, per se, an INCN 50% higher, by comparison;
   c. It is an asset entity;
   d. It has been removed from the entity index for not having submitted a corporation tax return in three consecutive tax periods.

Rates of tax and minimum taxation

The general tax rate is 25%, with other reduced tax rates which are applicable in special cases (we have listed some of the most important ones). Hence, starting in 2023, a new reduced tax rate of 23% is introduced for entities whose INCN for the immediately preceding tax period is less than 1 million euros.

Furthermore, newly created entities are taxed at 15% in the first tax period in which the Taxable Income is positive and in the following one. Likewise, and as from 2023, emerging companies are also taxed at 15% in the first tax period in which they have positive taxable income and in the following three, as long as they maintain their status.

On the other hand, non-profit entities to which Law 49/2002 of 23 December applies on the tax regime for non-profit entities and tax incentives for patronage pay taxes at 10% (for non-exempt income).

Additionally, since 2022, there has been minimum taxation in corporation tax which, in general, is a limitation of the net tax liability to 15% of the Taxable Income for those taxpayers whose INCN is at least 20 million euros during the 12 months prior to the beginning of the tax period (or who pay taxes under a tax consolidation regime regardless of their INCN). In any case, it will not apply to those taxpayers who pay taxes at a rate of 10% or lower.

Elimination of Double Taxation (domestic and international)

There are two methods of eliminating double taxation in Spain, both domestically and internationally, which are exemption and deduction. If they did not exist, the same income would be subject to double taxation, either for the same (legal) or different taxpayers (economic).

So, to avoid domestic double taxation, the exemption method is established in the LIS (art. 21), whilst to avoid international double taxation both methods coexist (exemption - articles 21 and 22 - and deduction -articles 31 and 32-).

A. Exemption from dividends and capital gains deriving from the transfer of shares or stakes (art. 21 LIS).

This exemption method applies whether the investee entity is Spanish or foreign, thus correcting double taxation through non-integration into the Taxable Income.

Hence, the first section regulates the exemption on dividends and profit-sharing deriving from entities both resident and non-resident in Spain, as long as the following requirements are met:

- Minimum stake of 5% in the capital or own funds of the investee entity.
- Uninterrupted period of holding the stake for at least 1 year.
- In the event that the investee entity is non-resident, it has been subject to and is not exempt from a tax of an identical or similar nature to Spanish corporation tax, with a nominal rate of at least 10%. However, this requirement will be deemed to have been met when the investee entity is resident in a country with which Spain has signed a Double Taxation Agreement, which is applicable to it and which contains an information exchange clause.

In turn, the third section regulates the exemption on the transfer of shares or stakes from entities both resident and non-resident in Spain, as long as the same requirements are met as for the previous case of dividends and profit-sharing The same regime will apply to any income obtained in the event of liquidation of the entity, removal of the member, merger, total or partial split, reduction of capital, non-monetary contribution or global transfer of assets and liabilities.

In both cases, since 2021 this exemption method has attained 95% of the amount of dividends or positive income, in general, as there has been a 5% reduction owing to management expenses.

B. Exemption of income obtained abroad through PE (art. 22 LIS)

The exemption method established in article 22 LIS will apply whenever positive income is obtained through a Permanent Establishment abroad and this has been subject to and not exempt from a tax of an identical or similar nature to the Spanish corporation tax, with a

nominal rate of at least 10%. However, the taxation requirement will be deemed to have been fulfilled when the PE is located in a country with which Spain has signed an International Double Taxation Agreement with an information exchange clause.

This regime will not be applicable to income from foreign sources that the entity integrates into its Taxable Income and in relation to which it chooses to apply, where applicable, the deduction established in article 31 LIS.

C. Deducción para evitar la doble imposición internacional jurídica: impuesto soportado por el contribuyente (art. 31 LIS)

This method to avoid legal double taxation when obtaining income abroad is applicable, whether this income has been obtained with or without a PE.

The application of this deduction consists of including in the taxpayer's Taxable Income any income obtained and taxed abroad, as well as the tax paid abroad, and deducting from the gross tax liability the lesser amount between: (i) the effective amount of that which was paid abroad due to a tax of a nature identical or similar to Spanish corporation tax and, in the case of application of a DTC, the deduction may not exceed the attendant tax according to the latter; or (ii) the gross tax liability amount that would have been payable in Spain if said income had been obtained in Spanish territory.

Additionally, starting in the financial year of 2015, that part of the tax paid abroad which exceeds the tax that would be paid in Spain and that, hence, is not subject to deduction, will be considered a deductible expense, as long as it pertains to the carrying out of economic activities.

In the event of an insufficient gross tax liability, any amounts not deducted could be deducted in subsequent tax periods.

D. Deduction to avoid international economic double taxation: dividends and profit-sharing (art. 32 LIS)

This deduction is applicable in the event of receiving dividends or profit-sharing paid by a non-resident entity in Spanish territory as long as two requirements are met:

- Minimum stake of 5% in the capital or own funds of the non-resident entity.
- Uninterrupted period of holding the stake for at least 1 year.

Hence, the tax paid by the non-resident entity in Spanish territory will be deducted with respect to the profits from which the dividends are paid for the attendant amount of said dividends, provided that said amount is included in the Taxable Income.

This deduction, together with that determined in article 31 LIS regarding dividends or profit-sharing, may not exceed the gross tax liability amount that would be payable in Spain for these income amounts if they had been obtained in Spanish territory.

In the event of an insufficient gross tax liability, any amounts not deducted could be deducted in subsequent tax periods.

Deductions to provide incentives to perform certain activities

In the IS, several tax benefits have been regulated in the form of deductions from the gross tax liability (once the deductions for double taxation and bonuses have been made) in order to encourage the performance of certain activities. So, the most important ones are:

A. Deduction for Research and Development activities and technological innovation (**R&D and TI**)

This deduction is divided, in turn, into two: Research and Development (R&D) on the one hand, and technological innovation (TI) on the other.

Hence, the deduction for R&D attains 25% of the expenses incurred in the tax period in this regard, although if the aforementioned expenses are greater than the average of those incurred in the previous two years, 25% will be applied up to said average, but the rate rises to 42% on the surplus. Furthermore, an additional deduction of 17% of the amount of the entity's staffing costs pertaining to qualified researchers assigned exclusively to R&D will be made. Finally, also additionally, 8% of investments in tangible and intangible assets may be deducted, excluding buildings and land, provided that they are exclusively used for R&D.

In turn, the deduction for technological research attains 12% of the expenses incurred in the tax period for this item.

It should be taken into account that the subsidies received to promote said activities reduce the base of the deduction, in both cases.

B. Deduction for investments in film productions, audiovisual series and live performing arts and musical shows.

This deduction is divided, in turn, into two: cinema/series, on the one hand, and public shows on the other.

Hence, the deduction for films/series is 30% of the first million basis of the deduction and 25% of the surplus of said amount.

In turn, the deduction for music/theatre attains 20% of the expenses incurred, with a limit of €500,000 per taxpayer in each tax period (in other words, a maximum investment of 2 and a half million euros).

As in the previous section, the base of the deduction will be reduced by the amount of subsidies received to finance this type of investment.

However, the majority of producers do not obtain enough share to apply said tax incentives, which is why other taxpayers are allowed to apply these tax credits, thereby incentivising culture in Spain, both through the financing agreement model (with a maximum deduction amount for the financing entity of 120% of the amount invested) or through an EIG structure, also taking advantage of the BINs (the latter could also be applicable for the deduction for R&D and TI).

C. Deduction for job creation of workers with disabilities.

This deduction, which pertains to employment generation policies and special care of individuals with greater difficulty in accessing it, is materialised by the following amounts:

- €9,000 multiplied by the increase rate of the average workforce of employees with a degree of disability equal to or greater than 33% and less than 65%.

- €12,000 multiplied by the increase rate of the average workforce of employees with a degree of disability equal to or greater than 65%.

Accordingly, it is a necessary requirement for the average workforce of employees with a degree of disability equal to or greater than 33% in the applicable tax period with respect to the immediately preceding tax period to be increased.

D. Common regulations

Furthermore, it is common to all these deductions that the amounts pertaining to the tax period not deducted may be applied in the settlements of the tax periods that end in the immediate,

subsequent 15 years. However, those pertaining to the deduction for R&D and TI have a term of 18 years.

On the other hand, all the deductions planned to encourage the performance of certain activities (the deduction for job creation through an indefinite contract to support entrepreneurs, which has not been commented on in this text due to its limited application, must also be taken into account for these purposes) may not exceed 25% of the Positive Adjusted Gross Tax Liability. However, this limit is raised to 50% when the amount of deductions for R&D and TI and film/series/music/theatre which pertain to expenses and investments made in the tax period itself exceeds 10% of said Positive Adjusted Gross Tax Liability.

Finally, the assets subject to these deductions must remain in operation for 5 years, or 3 years, if they are movable assets, or during their working life if this is shorter.

Special regimes: restructuring operations, Entities Holding Foreign Securities (ETVEs) and fiscal consolidation

LIS considers certain special corporation tax regimes, either due to the nature of the taxpayers concerned or due to the nature of the facts, acts or operations in question. Below we are going to take a look at some of the most important ones:

A. Tax neutrality regime in corporate restructuring operations (**RENF**)

This regime is mainly characterised by allowing the deferral of income which may arise in certain types of operations (mergers, splits, contributions of assets, swaps of securities and changes in registered office of a European company or a European cooperative company of a Member State to another EU Member State). Its application is voluntary, although when the requirements are met it is presumed that its application has been opted for, unless specifically indicated otherwise.

In any case, this regime will not apply when the main objective of the operation to which it is intended to apply has is tax evasion or avoidance. In particular, the regime will not be applicable when the operation is not carried out for Valid Economic Reasons (**MEV**) and the determination of the aforementioned MEVs is extremely important prior to carrying out the operation. These operations must be planned in great detail, since the application of RENF entails significant tax savings. And, on the contrary, its non-application or questioning can have a very significant fiscal impact.

B. ETVE Regime

This tax regime for entities classified as ETVEs grants Spanish holding type companies which hold foreign securities, important tax benefits.

In reality, these entities are subject to the general IS regime, although with certain special aspects regarding the taxation of capital gains and dividends from foreign sources (exemption of said income, provided that certain legal requirements are met), as well as in relation to the taxation of its members (non-application of taxation in Spain to the outflow of income deriving in turn from exempt income).

However, the ETVE must meet certain requirements, with the main one being having the material and human resources necessary to carry out the activity (compliance with the "substance" requirement).

C. Fiscal consolidation regime

For IS purposes, a tax group is assumed to be the set of companies which, being residents in Spanish territory, comprise a parent company (the only one which may be non-resident)

and all its subsidiaries in which the former has a stake of - at least, and in general - 75% of its share capital and over which it has the majority of voting rights.

Consequently, whenever the aforementioned stake and control requirements are met, the entities for which they are complied with will be compulsorily integrated into the existing tax group, with effects in the following tax period, unless they are newly created entities in which case the integration will occur from that time onwards.

So, the fundamental characteristics of the special tax consolidation regime which could determine overall taxation lower than that deriving from the application of the general regime, are the following:

i. The deferral in the taxation of income generated in operations carried out between the entities that make up the tax group.

ii. The compensation in the same tax period of the positive Tax Bases obtained by entities of the tax group with the BINs obtained by other entities of the same tax group, although with certain limits.

iii. The application of deductions to the Gross Tax Liability at the tax group level.

iv. The exemption from the withholding and payment obligation regarding dividends or profit-sharing, interest and other income paid between entities which form part of the same tax group.

Consequently, whenever the application of the special tax consolidation regime is opted for, the tax group will be taken to be a single taxpayer for IS purposes, with only the economic unit that the group represents being subject to taxation. Finally, it should be noted that the tax consolidation regime will be applied when agreed upon by each and every one of the entities that must make up the tax group, also being subject to compliance with certain requirements and obligations.

Taxation period

As a general rule, the tax period coincides with the entity's financial year. In these cases, the tax will accrue on the last day of the financial year.

Payments on Account

As already mentioned with regard to personal income tax (IRPF), these are withholdings, payments on account and instalment payments. All of them will be deductible from the IS net tax liability.

A. Withholdings and Payments on account

Certain income will be subject to withholdings or payments on account by the person who pays them, depending on whether they are monetary or in kind, respectively (i.e. dividends and interest).

B. Instalment Payments

The instalment payment on account of IS is an obligation that must be made during the first 20 calendar days of the months of April, October and December. Consequently, taxpayers must make the payment on account of the future settlement pertaining to the current tax period on the first day of said months.

Forms 202 and 222 must be used to complete and submit the instalment payments. The former will be used by companies subject to the general regime, whilst the latter will be used by companies subject to the tax consolidation regime.

Finally, there are two different methods to determine the amount of the instalment payment: (a) the procedure of article 40.2 LIS, general or tax liability; and (b) the procedure of article 40.3 LIS, optional or basic.

Return templates and submission deadlines

IS is filed each financial year by completing Form 200 (or 220 in the case of tax groups) approved for these purposes by the Ministry of Finance and Public Administration, and the submission period is 25 calendar days subsequent to the 6 months following the conclusion of the tax period (25 July of the following year, in the event that the tax period is equal to the calendar year).

Settlement scheme

The IS settlement scheme is as follows:

Accounting profit/loss

+- off-balance sheet tax adjustments

= Previous Taxable Income

- Capitalisation reserve and Negative Tax Income (BINs)

= Taxable Income

x Tax rate

= Gross tax liability

- Deductions for Double Taxation and Bonuses

= Positive Adjusted Gross Tax Liability

- Deductions to provide incentives to perform certain activities

= Positive Net Tax Liability

- Withholdings, payments on account and instalment payments

= TAX PAYABLE OR REFUNDABLE

4.2. Indirect taxation

Taxation on indirect manifestations of economic capacity in Spain is configured through two taxes: VAT and ITPAJD (Tax on Property Conveyances and Documented Legal Acts).

4.2.1. Value-added tax

VAT is a tax of an indirect nature, harmonised at European Union level, eminently business-related and affecting consumption.

Geographical scope

The geographical scope of application of the Tax is Spanish territory. However, for these purposes, the territories of the Canary Islands, Ceuta and Melilla are excluded.

In the Canary Islands, the General Indirect Tax of the Canary Islands is applied (IGIC), whilst in Ceuta and Melilla the Tax on Production, Services and Imports is applied.

Taxable events and accrual

VAT taxes three types of operations:

i. The deliveries of goods and services made by entrepreneurs or professionals for consideration in the geographical area of the Tax in the carrying out of their activity.

ii. Intra-community acquisitions of goods (inflows of goods from other EU Member States).

iii. Imports of goods (inflows of goods from third countries - includes the Canary Islands, Ceuta and Melilla).

The accrual is determined when an operation is deemed to have been carried out. In general, in other words, when the power of disposal over the delivered good is transferred or when the service is provided.

Taxpayer

Taxpayers, in general, are natural or legal persons who have the status of entrepreneurs or professionals and who deliver goods or provide services subject to the Tax.

The Taxpayer is obliged to charge the VAT to the recipient of the operations, unless the latter is exempt, self-assess it and pay it.

However, on certain occasions or cases regulated by the Law, what is known as the Reverse Charge of the Taxpayer occurs, in other words, the recipient of the operations becomes the Taxpayer, provided that he acts as an entrepreneur or professional in Spain.

Exemptions

There is the possibility of applying tax exemptions, for various reasons and under various assumptions and conditions. They are normally applied directly by the entrepreneurs and professionals who carry out the operations. In this way, VAT is not charged nor is there any right to deduct the VAT paid (although there are exempt operations which do grant the right to

deduction). Some affect certain sectors of activity: i.e. real estate, education, health, financial and insurance); and others, certain taxpayers.

Place of implementation

Through a series of localisation rules, it is determined when a specific operation is subject to VAT in Spain.

In general, deliveries of goods are understood to be located in Spain if this is the place where they are made available. However, if transportation is involved, they are assumed to be located at the place where said transportation begins. Furthermore, there are other exceptions to the general rule, which it is recommended to review in detail depending on the operation to be carried out.

Regarding the provision of services, we must differentiate depending on whether the recipient is an entrepreneur or professional (operations of the type Business to Business "**B2B**") or an end consumer (operations of the type Business to Consumer "**B2C**"). In the former case, they will be assumed to be carried out, in general, at the registered office or establishment of the recipient, whilst in the latter case, in general, at the location of the registered office of the provider (origin). However, there are exceptions to the general rule (for example, services related with real estate are assumed to be performed at the place where the property is located).

Taxable Income

In general, it is formed by the consideration paid.

Tax rate

There are three types of rate:

GENERAL	21%	Applicable to most operations
REDUCED	10%	
HIGHLY REDUCED	4%	
EXCEPTIONAL	0%	It was approved due to the crisis caused by COVID-19 for certain health products. It is now applied to certain foods due to the rise in prices brought about by Russia's invasion of Ukraine

Right to deduct Tax and Pro rata

For the deduction of VAT payments made, certain requirements must be met: objective, subjective and final. Furthermore, even if the above is met, there are some limitations, exclusions and restrictions on the right to deduct which must be taken into account.

The pro rata rule (percentage deduction of VAT paid), will thus apply when the Taxpayer, during the course of its business or professional activity, jointly supplies goods or services that give rise to the right to deduction and other operations of a similar nature which do not qualify for the exercising of the aforementioned right. The limitation of the right to deduct the VAT paid represents a cost to be taken into consideration in any possible investment.

Return templates and submission deadlines

VAT is filed periodically, either monthly or quarterly (depending on a series of characteristics or options) by completing Form 303. Additionally, an annual summary information return must be submitted by completing Form 390.

4.2.2. Tax on Property Conveyances and Documented Legal Acts

The IPTAJD is a tax of an indirect nature, all-encompassing (it includes, as we will see, three "modalities", which could well be differentiated taxes) and which, unlike VAT, represents a cost for the Taxpayer when he is an entrepreneur or a professional.

Taxable events

As has already been mentioned, the ITPAJD encompasses three different modalities, which are:

i. Property Transfers for a Consideration (**TPO**)

ii. Corporate Operations (**OS**)

iii. Documented Legal Acts (**AJD**). It consists of two payments: a fixed payment and a variable payment. The fixed payment, as the name suggests, is always in place, whilst the variable payment (%) depends on some factors that we will look at below.

For these purposes, it is appropriate to make clear that the TPO modality is incompatible with the OS modality, in other words, the same act can never be settled under both concepts. Furthermore, both modalities (TPO and OS) are incompatible, in notarial documents, with AJD (%).

We are going to study each of them separately and, in addition, we will point out some common rules.

4.2.2.1. Property Transfers for a Consideration

This modality taxes both "inter vivos" transfers for a consideration of goods and rights and the formation of rights in rem, loans, bonds, leases, pensions and administrative concessions, except when the objective of the latter is the transfer of the right to use railway infrastructures or properties or facilities at ports and airports.

The Taxpayer will be, by way of illustration and not limited to:

a. In the transfers of goods and rights, the party who acquires them.

b. In the formation of rights in rem, whoever is the beneficiary.

c. In the taking out of loans, the borrower.

d. In the formation of sureties, the secured creditor.

e. In the formation of leases, the lessee

The Taxable Income will be formed by the value of the transferred asset or the right that is created. Only charges that reduce the value of the assets will be deductible, but not debts, even if they are guaranteed by a pledge or mortgage.

For these purposes, the market value will be used, unless the Law determines otherwise (for example, for real estate the reference value will be taken as from 2022). However, if the declared value, the agreed price or consideration or both are higher than the market value, the higher value will be assumed (also in the case of real estate).

The tax payable will be obtained by applying the tax rate to the Taxable Income. So, in relation to movable or immovable property (except for security rights in rem), the rate approved by each Autonomous Community will apply. For these purposes, in the case of movable property in Asturias, the generally applicable rate is 4% (although a rate of 8% applies to transfers of passenger and off-road vehicles that exceed 15 fiscal horsepower, vessels which are more than 8 metres long and works of art and antiques), whilst in the case of real estate, the applicable rate depends on the value of the good or right in question. Hence:

RATE	VALUE OF THE ASSET
8%	right is less than or equal to €300,000.
9%	right is greater than €300,000 and less than or equal to €500,000.
10%	exceeds €500,000.

There are certain specialised areas though which have been summarised below:

RATE	
6%	is applied to the transfer of homes located in rural areas at risk of depopulation.
3%	(i) to dwellings classified as being under public protection by the Principality in compliance with a series of requirements (i.e. they are going to be used as an habitual residence by the purchaser);
	(ii) to properties included in the global transfer of individual companies or professional businesses, provided that a series of circumstances occur;
	(iii) to the transfers for a consideration of certain agricultural holdings;
	(iv) to the second or subsequent transfer of homes to be used for the lease of an habitual residence to a company in which the rules of adaptation of the General Chart of Accounts to the real estate sector are applicable, in compliance with a series of requirements.
2%	is applied to transfers in which the right to exemption from VAT is used (an act known colloquially as the “waiver of the waiver”).

However, if it involves the formation of security rights in rem, pensions, bonds or loans, as well as the assignment of credits, the applicable rate is the State rate, 1%. Furthermore, leases and the transfer of securities are taxed in accordance with the provisions of State law.

Finally, accrual occurs on the day on which the encumbered act or contract is carried out.

4.2.2.2. Corporate Operations

This modality taxes the constitution and dissolution of companies, as well as the increase and decrease in their capital, in addition to the contributions made by partners that do not entail an increase in share capital and the transfer to Spain of the effective management office or registered office of a company when neither one nor the other was previously located in an EU Member State (unless any case of non-submission or exemption of those that will be detailed below applies).

The Taxpayer will be:

a. In the formation of companies, increases in capital, the transfer of the effective management office or registered office and member contributions which do not entail an increase in share capital, the company.

b. In the dissolution of companies and reduction of share capital, the members, co-owners, co-proprietors or participants with regard to the assets and rights received.

The Taxable Income will be made up of:

a. In the formation of companies and increase in capital of companies that in some way limit the liability of the members, the nominal amount at which it is initially set or increased with the addition of the share premiums required, where applicable.

b. In the case of operations carried out by companies other than the previous ones and in the contributions of the members that do not entail an increase in the share capital, the net value of the contribution, taken to mean the value of the assets and rights contributed minus any charges and expenses that are deductible and minus the value of the debts still borne by the company by dint of the contribution.

c. In transfers of the effective management office or registered office, the liquid assets of the company on the day the resolution is adopted.

d. In the reduction of capital and in the dissolution, the value of the assets and rights handed over to the members, without deducting any expenses and debts.

The tax payable will be obtained by applying the tax rate of 1% to the Tax Base. In any case, in several cases said taxation does not become effective due to cases of exemption or non-submission (e.g. restructuring operations are not subject to OS while the incorporation of companies is an exempt operation, as we will see below).

Finally, the accrual occurs on the day the act subject to tax is formalised.

4.2.2.3. AJD

This modality, in turn, is divided into three:

i. Documented Legal Acts - Notarial Documents (**AJD-DN**)

ii. Documented Legal Acts-Commercial Documents (**AJD-DM**)

iii. Documented Legal Acts-Administrative Documents (**AJD-DA**)

Furthermore, the accrual occurs, as under the previous modality (OS), on the day the act subject to tax is formalised.

A. AJD-DN

It taxes the deeds, certified notarial documents and certificates. The Taxpayer is the party who acquires the asset or right and, failing that, the parties who promote or request the notarial documents, or those in whose interest they are issued. So, when it comes to loan deeds with a mortgage guarantee, it will be the lender. The Taxable Income will be made up of the declared value, on the first copies of public deeds that have as their direct object a valuable amount or thing, without prejudice to administrative verification. However, as regards security rights in rem and in the deeds documenting secured loans, it will be formed by the amount of the obligation or capital secured.

The tax payable, as has been said, is divided into two: a fixed payment and a variable payment. The fixed payment taxes the originals and copies of the notarial acts and deeds, as well as the certified copies at €0.30 per document or €0.15 per folio (for headed paper, basically). In turn, the variable payment taxes the first copies of deeds or notarial acts, when the following requirements are met:

i. Whose object is a valuable quantity or thing.

ii. Which contain acts or contracts that can be registered (regardless of whether they are actually registered or not) with the Property, Commercial, Industrial Property and Movable Property Registries.

iii. That said acts or contracts are not subject to the ISD or TPO or OS.

The tax rate applicable to the Tax Base in Asturias is, in general, 1.2%.

There are certain specialised areas though which have been summarised below:

RATE	
1.5%	is applied to loans with a mortgage guarantee, as well as transfers in which the VAT exemption is waived.
0.3%	(i) in the transfers of public protection housing, in compliance with certain requirements;
	(ii) in relation to declarations of new construction or horizontal division of buildings intended for rental housing for habitual residence, in compliance with certain requirements;
	(iii) second or subsequent transfers of homes to companies to which the rules of adaptation of the General Chart of Accounts to the real estate sector apply, in compliance with certain requirements.
0.1%	is applied for the formation and cancellation of security rights in rem when the Taxpayer is a Mutual Guarantee Association with its registered office in the Principality.

B. AJD-DM

This taxes bills of exchange, documents that perform a money transfer function or replace them, receipts or certificates of transferable deposits, as well as promissory notes, bonds, debentures and other similar securities issued in series, for a term not exceeding eighteen months, representing foreign capital for which a consideration is paid determined by the difference between the amount paid for the issue and the amount committed to be repaid upon maturity.

The Taxpayer with regard to the bills of exchange is the drawer, unless the bill of exchange was issued abroad, in which case it will be their first holder in Spain. In turn, the Taxpayer of the draw bills or bills replacing the bills of exchange, as well as the deposit receipts and promissory notes, bonds, debentures and similar securities issued in series, is the person or entity that issues them.

The Taxable Income will be made up of the amount drawn in the bills of exchange and the nominal amount in the certificates of deposit. In turn, with promissory notes, bonds, debentures and other similar securities, issued in series, representing foreign capital, for which a consideration is paid determined by the difference between the amount paid in the issue and the amount committed to be repaid upon maturity, the Taxable Income will be formed by the amount of capital that the issuer undertakes to reimburse.

The tax payable on bills of exchange and documents that perform a draft function or replace bills of exchange and certificates of deposit will be carried out in accordance with the scale provided in article 37 of Royal Legislative Decree 1/1993 of 24 September which approves the redrafted Text of the Law on Property Conveyances and Documented Legal Acts (**LITPAJD**). In turn, promissory notes, bonds, debentures and other similar securities, issued in series for a term not exceeding eighteen months, representing foreign capital, for which a consideration is paid determined by the difference between the amount paid upon issuance and that committed to be repaid upon maturity, will be taxed at the rate of €18.0304 for each €6.01 or fraction thereof, which will be settled in cash.

C. AJD-DA

This taxes the rehabilitation and transfer of peerages and titles, as well as the preventive annotations that are carried out at public Registries, when their object is a valuable right or interest and they are not ordered *ex officio* by the competent judicial or administrative authority.

The Taxpayer is: (i) with regard to peerages and titles, their beneficiaries; and (ii) in the annotations, the person who requests them.

The Taxable Income in the preventive annotations will be formed by the value of the right or interest which is guaranteed, published or formed.

The tax payable on peerages and titles will meet the rights of the scale set out in article 43 LITPAJD (which is why there is no Taxable Income). However, the tax payable on preventive annotations will be 0.50%.

D. Common regulations

With ITPAJD, the exemptions are common to the three types of Tax that we have seen and are regulated in art. 45 LITPAJD. Some examples are (subjective - according to the person - and objective - according to the act or contract-):

- The State and territorial and institutional Public Administrations and their charitable, cultural, Social Security, educational or scientific establishments. This exemption will also be applicable to those entities whose tax regime has been equated by a Law to that of the State or that of the aforementioned Public Administrations.

- The non-profit entities referred to in article 2 of Law 49/2002 of 23 December on the tax regime for non-profit entities and tax incentives for patronage, who take advantage of the special tax regime in the manner provided for in article 14 of said Law.

- The contributions of assets and rights brought by the spouses to the marital partnership, any awards to their benefit and in payment thereof which occur upon its dissolution and the transfers made to this end to the spouses in payment of their marital assets.

- Restructuring operations [TPO and AJD (%)]. Technically, in the case of OS, this is a non-subjection scenario.

- The formation of companies, the increase in capital, the contributions made by members that do not entail an increase in capital and the transfer to Spain of the effective management office or the registered office of a company when neither one nor the other was previously located in a Member State of the European Union.

- Cash deposits and loans, regardless of the form in which they are implemented, including those represented by promissory notes, bonds, debentures and similar securities. The exemption will extend to the subsequent transfer of the certificates documenting the deposit or loan, as well as the tax on documented legal acts which applies to promissory notes, bonds, debentures and other similar securities issued in series, for a period not exceeding eighteen months, representing foreign capital for which a consideration is paid for the difference between the amount paid upon issuance and the amount committed to be repaid upon maturity, including loans represented by cash bonds issued by industrial or business banks.

Return templates and submission deadlines

The ITPAJD is filed in Asturias by completing Form 600. Hence, the submission period is 30 business days as from such time as the act or contract is created.

4.3. Taxation of personal assets and family business regime

In Spain, there are two other direct taxes, which do not apply to income, but rather the first taxes property (**IP**) and the second the "inter vivos" or "mortis causa" transfer of said assets (**ISD**). Both Taxes consider a beneficial tax regime for the family business, which we will take a look at.

4.3.1. Wealth Tax and Temporary Wealth Tax on High Fortunes

The Wealth Tax (IP) is an annual direct tax of a personal nature that taxes the net wealth (total assets and rights reduced by charges and debts) held by individuals in Spain as of December 31st each year.

Taxpayer

According to Law 19/1991, of June 6, on Wealth Tax (LIP), the taxpayers of the tax are natural persons, excluding legal entities and entities without legal personality. There are two methods of collection: personal obligation and real obligation.

The personal obligation is the most common way to apply the tax, taxing all the assets of the taxpayer, regardless of where the assets are located. Individuals who have their domicile or habitual residence in Spain (i.e., tax residents in Spain) will be subject to the tax under this method.

In the case of the real obligation, individuals will only be taxed for assets and rights located, exercisable, or to be fulfilled in Spanish territory in the following cases:

a. Individuals who do not have their habitual residence in Spain.

b. Individuals who acquire tax residence in Spain due to their relocation to Spanish territory but choose to pay taxes under the Non-Resident Income Tax (IRNR) by opting for the impatriates' regime we have seen in Personal Income Tax (IRPF).

Tax Residence

As we have seen, the Wealth Tax Law (LIP) establishes that taxpayers who have their habitual residence in Spain will be subject to the personal obligation method, and the tax will be imposed on the entire net wealth, regardless of the location of assets or the exercise of rights.

To determine the habitual residence for the purposes of Wealth Tax in a particular Autonomous Community, the current regulations stipulate that it will be the same as that applicable to Personal Income Tax (IRPF). Therefore, to establish that a specific taxpayer's tax residence is in Asturias (and, consequently, to apply the regulations of this territory), you should refer to the priority order established for IRPF, which we have already discussed in the relevant section.

Territorial Specialties

Each Autonomous Community has the authority to legislate on the minimum exemption, the tax rate, and deductions and bonuses, as per Article 47.1 of Law 22/2009, of December 18, which regulates the financing system of Autonomous Communities of common regime and Autonomous Cities and amends certain tax laws (LFCA). These differences will be evident in the context of Asturias.

Tax Benefits in the Form of Exemptions Applicable in Asturias

a. Principal Residence

   The taxpayer's primary residence is exempt up to a maximum amount of €300,000 (only any excess would be subject to taxation).

b. Household Goods

   Household goods are also exempt, defined as personal and household effects, domestic utensils, and other movable property for personal use [excluding jewelry, vehicles, and art objects that exceed a certain value (e.g., paintings and sculptures over €90,101.21 - if they are less than 100 years old), among others].

c. Shares or Interests in Commercial Entities (Family Business Regime)

   Exemption is provided for full ownership, bare ownership, and the right to lifetime usufruct over shares/interests in entities, whether or not they are listed on organized markets [Article 4.8.2 of the Wealth Tax Law].

   This exemption is subject to the fulfillment of certain requirements, as mentioned below (for illustrative purposes, without conducting a comprehensive analysis):

   i. Ownership percentage equal to or greater than 5% of the capital of the company, or 20% when computed jointly with one's spouse, ascendants, descendants, or second-degree relatives.

ii. Effective exercise of management functions in the family entity, receiving remuneration representing more than 50% of their total income from work and economic activities.

iii. The invested company must effectively carry out an economic activity and must not have, as its primary activity, the management of a movable or immovable estate. It is understood that a company manages a movable or immovable estate and therefore does not engage in an economic activity when any of the following conditions exist for more than 90 days of the fiscal year:

    a. More than half of its assets consist of financial investments.

    b. More than half of its assets are not related to economic activities.

If these requirements are met, the exemption in Wealth Tax (IP) can be either total (covering the entire value of the ownership) or partial (only a portion of the ownership value can be exempt, if, in the entity, assets not related to economic activities exist).

Other Elements of the Wealth Tax Applicable in Asturias

a. Minimum Exemption

   Once the Tax Base of the Wealth Tax has been calculated, it will be reduced by the amount established as the minimum exemption. In practice, the minimum exemption serves as a threshold that determines the obligation to file the Wealth Tax return.

   The minimum exemption set at the national level is €700,000, which is applicable in all Autonomous Communities (**CCAA**) that have not approved a different amount, as is the case with Asturias.

b. Tax and Rate

   Once the Tax Base has been calculated, the tax is determined by applying the tax rate or scale (which has a progressive structure by brackets) that has been approved by the respective Autonomous Community. Only if the current Autonomous Community has not approved its own rate, the national rate would apply.

   In this regard, Asturias has approved its own rate, which is outlined in Article 15 of the Consolidated Text of the Legal Provisions of the Principality of Asturias on Taxes Transferred by the State.

Bonus for Specially Protected Assets of Taxpayers with Disabilities in Asturias

In the Principality of Asturias, if the assets or economic rights included in the Tax Base are part of the specially protected assets of the taxpayer established under Law 41/2003, of November 18, on the protection of the assets of persons with disabilities and the amendment of the Civil Code, the Code of Civil Procedure, and the Tax Regulations for this purpose, a 99 percent bonus may be applied to the portion of the tax proportional to these assets or rights.

Declaration Models and Filing Deadlines

Wealth Tax is filed each year by completing Model 714, which is approved for each fiscal year by the Ministry of Finance and Public Function, and the filing deadline typically falls between April and June of each year, as determined in the Ministerial Order approving the model (usually coinciding with the Personal Income Tax filing deadline, with both models being approved through the same Ministerial Order).

Liquidation Scheme

Here is an outline of the liquidation process:

Value of non-exempt assets and rights

- Deductible debts

= Tax Base

- Reduction for the minimum exemption

= Taxable Base

x rates according to the tax scale

= Gross Tax

- Reductions for the joint limit of Personal Income Tax (IRPF)

- Deduction for foreign taxes

- Autonomous deductions and bonuses

= TOTAL TO PAY

Temporary Wealth Tax on High Fortunes (ITSGF)

On December 28, 2022, Law 38/2022, of December 27, was published in the Official State Gazette (BOE). This law establishes temporary taxes on energy and credit institutions and financial credit institutions and creates the Temporary Wealth Tax on High Fortunes, in addition to amending certain tax laws. This new tax is a direct tax that cannot be ceded to the Autonomous Communities and complements the Wealth Tax. It is applicable temporarily for the years 2022 and 2023.

Consequently, this new tax taxes the net wealth of individuals with an amount exceeding €3,000,000 and makes a complete reference to the Wealth Tax Law regarding exempt assets and rights, as well as the taxpayers and determination of the Tax Base. Likewise, a minimum exemption of €700,000 is established.

The applicable tax rate can be 1.7%, 2.1%, or 3.5%, depending on the scale set out in Article 3.11 of the Law.

In addition, there is a limit on the Gross Tax of this tax, which, along with the Personal Income Tax (IRPF) and the Wealth Tax, may not exceed 60 percent of the sum of the Tax Bases of the former for taxpayers subject to the tax under personal obligation. In this regard, the rules on the limit of the Gross Tax of the Wealth Tax will apply. However, if the sum of the taxes for all three taxes exceeds the previous limit, the tax for this tax will be reduced until it reaches the indicated limit, without the reduction exceeding 80 percent.

To avoid double internal taxation, it is possible to deduct the Wealth Tax actually paid.

Therefore, the ITSGF mainly affects Autonomous Communities that have a reduced rate for the Wealth Tax. This is not the case in Asturias.

4.3.2. Inheritance and Gift Tax

The Inheritance and Gift Tax (ISD) levies acquisitions by individuals, whether lucrative or gratuitous, through "inter vivos" acts (gifts) or "mortis causa" acts (inheritance).

Taxable Events

We must differentiate between three:

i. The acquisition of assets and rights by inheritance, bequest, or any other successional title.

ii. The acquisition of assets and rights through a gift or any other gratuitous legal transaction.

iii. The receipt of amounts by beneficiaries of life insurance contracts when the policyholder is a different person than the beneficiary (unless they qualify as employment income in Personal Income Tax).

Competence and Applicable Regulations

For these purposes, we refer to the tables available on the Spanish Tax Agency (AEAT) website, both for inheritances and gifts, as they are highly illustrative.

Taxpayers

Taxpayers of the Inheritance and Gift Tax are individuals who:

i. In "mortis causa" acquisitions, are acquirers of the assets and rights.

ii. In gifts and other inter vivos gratuitous transmissions, are donees or beneficiaries.

iii. In life insurance, are beneficiaries.

There are two collection methods: personal obligation and real obligation.

Personal obligation applies to individuals who have their habitual residence in Spain, regardless of the location of the assets and rights. For determining habitual residence, the rules of the Personal Income Tax apply, as detailed previously.

Real obligation, by exclusion, applies to taxpayers who do not have their habitual residence in Spain (nor are representatives or officials of the Spanish state abroad - they are subject to personal obligation), for the acquisition of assets and rights located, exercisable, or to be fulfilled in Spanish territory, as well as for the receipt of amounts derived from life insurance contracts when the contract was made with Spanish insurance companies or was entered into in Spain with foreign entities operating therein.

Tax Base

The Tax Base is formed by:

i. In "mortis causa" and inter vivos transmissions, the net value of the acquired assets and rights reduced by deductible debts and charges.

ii. In life insurance, the amounts received by the beneficiary.

As a general rule, the market value of assets and rights will be taken into account. However, if the value declared by the interested parties is higher than the market value, that amount will be considered the Tax Base.

In any case, for real estate, the reference value has been used since 2022. However, if the declared value is higher than the reference value, the former will be considered the Tax Base.

Tax Benefits in the Form of Reductions to the Tax Base in Asturias

A. Inheritance Tax: The most important tax benefits in inheritance tax in Asturias include:

a. By Relationship.

In Asturias, groups I and II of kinship (descendants, spouses, ascendants, and adoptees) are entitled to apply a tax reduction of €300,000, which is significantly higher than the national one.

b. For the acquisition of the primary residence

In Asturias, the percentage of reduction depends on the real value of the property. For properties valued at more than €240,000, a reduction rate of 95% applies. If the property's value is equal to or less than €240,000 but more than €180,000, a reduction rate of 96% applies. Similarly, for properties valued at equal to or less than €180,000 but more than €120,000, a reduction rate of 97% is applied. If the property's value is equal to or less than €120,000 but more than €90,000, an 80% reduction rate is applied. For properties with a real value equal to or less than €90,000, the maximum reduction rate of 99% applies. Therefore, except for properties with a real value exceeding €240,000, these percentages are higher than the national standard (95%).

In any case, the limit established in Law 29/1987, of December 18, on Inheritance and Gift Tax (**LISD**), of €122,606.47 per Taxpayer applies, and there is a requirement for the property to be held for the 10 years following the deceased's passing, unless the acquirer passes away within that period. However, the legislation in Asturias reduces this maintenance requirement to just 3 years, which is, once again, a clear regional advantage.

c. Due to family business

The state reduction for this concept is 95%. However, the Principality, in this case, establishes its own reduction of 4%, which is compatible with the state reduction. Therefore, if all the requirements (both regional and national) are met, the taxpayer will have the right to apply a 99% reduction for the "mortis causa" acquisition of the family business.

The state requirements to be met are as follows:

i. That the exemption regulated for the IP, as we have seen in the corresponding section, is applicable.

ii. That the acquisition corresponds to the spouse, descendants, or adopted children. And in cases where there are no descendants or adopted children, the acquisitions by ascendants or adopters and collateral relatives up to the third degree of the deceased person. In any case, the surviving spouse will have this right.

iii. That the acquisition is maintained for the 10 years following the death of the deceased, unless the acquirer passes away within that period. The acquirer cannot carry out acts of disposal or corporate transactions that could substantially reduce the value of the acquisition during the mentioned period.

On the other hand, the regional requirements to be met are as follows:

i. That the exemption regulated for the IP, as we have seen in the corresponding section, is applicable.

ii. That the acquisition corresponds to the spouse, descendants, or adopted children, ascendants or adopters, and collateral relatives by consanguinity up to the third degree of the deceased person.

iii. That the acquirer retains the acquisition in their assets for the 5 years following the transmission date, unless they pass away during that period. The acquirer cannot carry out acts of disposal or corporate transactions that could significantly reduce the value of the acquisition during the specified period.

iv. That the fiscal domicile of the family business is located in the Principality, and it is maintained for the 5 years following the death of the deceased.

B. In the case of donations, the most important one is:

a. For family businesses

Just like in the case of successions, in Asturias, there is also a regional reduction of 4% for acquiring a family business "inter vivos," which is compatible with the national reduction of 95%. Therefore, if all the requirements (both regional and national) are met, the taxpayer has the right to apply a 99% reduction for the acquisition of a family business "inter vivos."

The national requirements to qualify for this reduction are as follows:

i. That the exemption provided for in the Wealth Tax, which we have seen in the corresponding section, is applicable.

ii. That the acquisition corresponds to the spouse, descendants, or adopted children.

iii. That the acquirer keeps the acquisition in their assets and is entitled to the exemption in the Wealth Tax for the 10 years following the date of the public deed of donation, unless they pass away within that period. The acquirer cannot carry out acts of disposition or corporate transactions during this period that may substantially reduce the value of the acquisition.

iv. That the donor is 65 years of age or older or is in a situation of permanent disability in the absolute or severe grade.

v. That if the donor was holding management positions, they cease to hold such positions and cease to receive remuneration for these functions from the moment of the transfer. For these purposes, mere membership in the Board of Directors is not considered to be a management position.

On the other hand, the regional requirements to qualify for this reduction are as follows:

i. The exemption provided for in the Wealth Tax, which we have discussed in the corresponding section, must be applicable.

ii. The acquisition must pertain to the spouse, descendants, or adopted children, as well as to ascendants or adopters and collateral relatives by blood, up to the third degree.

iii. The acquirer must retain the acquisition in their assets for the 5 years following the tax liability date unless they pass away within that period. The acquirer cannot carry out acts

of disposition or corporate transactions during this period that may directly or indirectly substantially reduce the value of the acquisition.

iv. The donor must be 65 years of age or older, or be in a situation of permanent disability at the absolute or total grade, or be in a state of severe disability.

v. If the donor held management positions, they must cease to hold such positions and cease to receive remuneration for these functions from the moment of the transfer. For these purposes, mere membership in the Board of Directors is not considered to be a management position.

vi. The fiscal domicile of the family business must be located in the Principality, and it must be maintained for the following 5 years.

Applicable Tariff in Asturias

The tax rate applicable to the taxable base for calculating the gross tax liability in the Principality of Asturias is specified in Article 21 of the Legislative Decree 2/2014, of October 22, which approves the consolidated text of the legal provisions of the Principality of Asturias regarding taxes assigned by the State.

Bonuses Applicable in Asturias for Inheritance Tax for Disabled Taxpayers

In the case of inheritance acquisitions by taxpayers with a recognized degree of disability equal to or greater than 65%, a 100% bonus will be applied to the tax amount resulting after applying any applicable state and regional deductions, provided that the heir's pre-existing assets do not exceed €402,678.11.

Declaration Forms and Filing Deadlines

In Asturias, Inheritance and Gift Tax is filed using Forms 660 and 650 (for inheritances) and 661 and 651 (for gifts). The filing deadline is 6 months from the date of the deceased person's passing or from the date when the declaration of death becomes final (extendable by another 6 months under certain conditions). For gift tax, the filing deadline is 30 business days from the day following the date of the act or contract.

Inheritance Tax Calculation Scheme (Inheritances)

(a)

Estate Assets

+ Household Goods

- Exempt Assets

= Gross Hereditary Mass

- Debts and Liabilities

= Net Hereditary Mass (to be distributed)

(b)*

Individual Taxable Base (% of Net Hereditary Mass (NHN) + life insurance)

- Deductions (kinship, disability, life insurance, family business, and primary residence)

= Taxable Base

x Tax Rate

= (Initial) Gross Tax Liability

x Multiplication Coefficient

= Adjusted Tax Liability

- Deduction for International Double Taxation

= FINAL TAX

*Except for usufruct, for which the Average Tax Rate is calculated.

4.4. Regional and Local Taxation

Up to this point, we have been analyzing taxation in Spain at the state level. However, as has been observed, Asturias has delegated some competencies in this regard. At this moment, we will delve into the taxes specific to the Principality, as well as the main local taxes, and the definition of fees and special contributions (these can be either regional or local).

4.4.1. Regional Taxes

Asturias has approved its own taxes. Some of them, listed for illustrative purposes and not exhaustively, include:

i. Tax on environmental impacts of water use.

ii. Tax on large commercial establishments.

iii. Tax on the development of certain activities that affect the environment.

4.4.2. Local Taxes

The regulation of local taxes is found in the Consolidated Text of the Law Regulating Local Finance (LRHL). However, the regulatory development of these taxes is carried out through the Fiscal Regulations specific to each municipality.

According to the LRHL, municipalities will compulsorily levy the following taxes:

i. Property Tax (**IBI**)

ii. Tax on Economic Activities (**IAE**)

iii. Tax on Motor Vehicles (**IVTM**)

Additionally, municipalities may levy (not mandatory) the following taxes:

i. Tax on the Increase in Value of Urban Land (**IIVTNU**)

ii. Tax on Constructions, Installations, and Works (**ICIO**)

4.4.2.1. Property Tax

The Property Tax (IBI) is a direct and real tax that levies on the value of real estate. The taxable event of the tax is the ownership of the following rights over real estate:

i. Ownership.

ii. Usufruct.

iii. Surface rights.

iv. Administrative concession.

Taxpayers, as contributors, are individuals or entities holding the aforementioned rights.

The Taxable Base will consist of the cadastral value of the real estate. The Taxable Amount will be the result of applying reductions to the Taxable Base. The Gross Tax will be the result of applying the applicable tax rate to the Taxable Amount.

The minimum and fallback tax rate will be 0.4 percent for urban real estate and 0.3 percent for rural real estate, and the maximum will be 1.10 percent for urban and 0.90 percent for rural. These rates may be increased under certain circumstances (e.g., municipalities that are the capital of a province or autonomous community).

The applicable tax rate for real estate with special characteristics, as a fallback, will be 0.6 percent. Municipalities may establish a differentiated rate for each group of such properties in the municipality, which, in no case, will be lower than 0.4 percent or higher than 1.3 percent.

The Net Tax will be the result of applying the appropriate discounts to the Gross Tax.

The tax is due on January 1 of each year.

Real Affectation

In cases of change, for any reason, in the ownership of the rights that constitute the taxable event of this tax, the real estate subject to those rights will be liable for the payment of the entire tax, under a regime of subsidiary liability.

4.4.2.2. Tax on Economic Activities

The Tax on Economic Activities (IAE) is a direct and real tax, the taxable event of which is the mere exercise of business, professional, or artistic activities within the national territory. An activity is considered to be exercised with a business, professional, or artistic character when it involves the organization, on one's own account, of means of production and human resources or one of them, with the purpose of intervening in the production or distribution of goods or services.

Exempt from the tax are, among others, taxpayers who start their business during the first two tax periods, as well as individuals, taxpayers of the Corporate Income Tax (IS), civil societies, and entities under article 35.4 of Law 58/2003, of December 17, General Taxation Law (LGT), the latter when their net turnover is less than 1 million euros. In this regard, effective from January 1, 2022

(unless there have been registrations before), in cases of corporate groups, the net turnover to be taken as a reference is that of the entire group, regardless of the obligation to consolidate accounts.

Taxpayers of this tax are individuals or legal entities and entities referred to in article 35.4 LGT whenever they carry out any of the activities that give rise to the taxable event within the national territory.

The tax amount will result from applying the tax rates regulated in Royal Legislative Decree 1175/1990, of September 28, which approves the rates and instructions of the Tax on Economic Activities, and the coefficients and discounts that correspond.

The tax period coincides with the calendar year, except in the case of declarations of commencement, in which case it will cover from the start date of the activity until the end of the calendar year. Thus, the tax is due, in general, on January 1 of each year.

4.4.2.3. Tax on Motor Vehicles

Commonly known as the "Vehicle Tax," the Tax on Motor Vehicles (IVTM) is a direct tax that levies on the ownership of motor vehicles capable of circulating on public roads. A vehicle is considered suitable for circulation if it has been registered in the corresponding public records and has not been deregistered. For the purposes of this tax, vehicles with temporary permits and tourist license plates are also considered suitable.

Taxpayers of this tax are individuals or legal entities and entities referred to in article 35.4 LGT, in whose name the vehicle is registered in the registration certificate.

The tax will be demanded according to the tariff schedule of article 95 of the LRHL.

The tax period coincides with the calendar year, except in the case of the first acquisition of vehicles. In this case, the tax period will start on the day of the acquisition. The accrual, on the other hand, takes place on the first day of the tax period.

4.4.2.4. Tax on the Increase in Value of Urban Land

This is a direct tax that, as its name indicates, levies on the increase in value of urban land over time, which becomes apparent as a result of the transfer of the land or the creation or transfer of any real right of enjoyment, restrictive of ownership, over said land.

Taxpayers

Taxpayers, as contributors:

- In the transfer of land or in the creation or transfer of onerous real rights of enjoyment, the individual or legal entity, or the entity referred to in article 35.4 LGT that acquires the land or in whose favor the real right being transferred or created.
- In the transfer of land or in the creation or transfer of onerous real rights of enjoyment, the individual or legal entity, or the entity referred to in article 35.4 LGT that transfers the land or that creates or transfers the real right being transferred or created.

Calculation Methods

There are currently two calculation methods for the tax, in case of a real increase in the value of the land.

In the first alternative, the Taxable Base will be the result of multiplying the cadastral value of the land by the coefficients set out in article 71 of Law 31/2022, of December 23, General State Budgets for the year 2023 (although some municipalities may have approved more favorable coefficients for the taxpayer).

Next, the tax rate approved by each Fiscal Regulation is applied (i.e., in Siero, it is 30%, while in Oviedo, it is reduced to 20%). Therefore, the tax calculation formula is as follows:

Cadastral Value x Coefficient based on years of ownership x Tax rate approved by each Fiscal Regulation

However, if the interested party proves that the real increase in value is lower than the Taxable Base of the first alternative, the first one will be taken as the Taxable Base [i.e., the real increase calculated between the difference in the transfer value and the acquisition value at the percentage of the land (second alternative)]. For these purposes, the same procedure as for cases of non-submission (loss or absence of effective increase) will be applied; that is, the interested party must request it by providing the deeds of transfer and acquisition that demonstrate that the result is lower than the Taxable Base of the first alternative. In that case, that difference in values is multiplied by the tax rate to obtain the payable amount (which would logically be lower than the result of the first alternative, in any case). Alternatively (and more recommended), the taxpayer can also provide a valuation report, proving that the real value of the land is lower than the taxable base of the first alternative.

Accrual

The tax accrues:

- When the ownership of the land is transferred, on the date of the transfer.
- When any real right of enjoyment, restrictive of ownership, is created or transferred, on the date of the creation or transfer.

Most Important Cases of Non-Submission

The increase in value experienced by land classified as rustic for IBI purposes is not subject to this tax. Nor will the tax be incurred in the cases of contributions of assets and rights made by spouses to the marital community, allocations made in their favor and in payment of them, and transfers made to spouses in payment of their common assets. The tax will also not be incurred in the transfer of land where the absence of an increase in value is verified by the difference between the values of said land on the dates of transfer and acquisition.

4.4.2.5. Tax on Constructions, Installations, and Works

The Tax on Constructions, Installations, and Works (ICIO) is an indirect tax whose taxable event is the realization, within the municipal area, of any construction, installation, or work for which obtaining the corresponding construction or urban planning license is required, whether or not such a license has been obtained, or for which the presentation of a responsible declaration or prior communication is required, provided that the issuance of the license or the control activity corresponds to the imposing municipality.

Taxpayers of this tax, as contributors, are individuals, legal entities, or entities under article

35.4 LGT who own the construction, installation, or work. For these purposes, the owner of the construction, installation, or work is considered to be the one who bears the expenses or the cost involved in its realization.

The Taxable Base of the tax is formed by the real and effective cost of the construction, installation, or work, and is understood, for these purposes, as the cost of the material execution thereof. The Taxable Base does not include VAT and other similar taxes specific to special regimes, fees, public prices, and other local public patrimonial benefits related, if applicable, to the construction, installation, or work, nor the fees of professionals, the contractor's business profit, or any other concept that does not strictly integrate the cost of material execution.

The tax amount will be the result of applying the tax rate to the taxable base. The tax rate will be set by each municipality, and this rate cannot exceed 4%.

The tax accrues at the moment the construction, installation, or work begins, even if the corresponding license has not been obtained.

4.5. General Aspects of International Taxation

Spain has a very extensive network of Double Taxation Treaties (DTTs). They provide a source of legal security for those who want to invest in our country. Additionally, Spain has developed internal regulations, such as the Royal Legislative Decree 5/2004, of March 5, which approves the consolidated text of the Non-Resident Income Tax Law (LIRNR), and the Royal Decree 1776/2004, of July 30, which approves the Regulation of the Non-Resident Income Tax (RIRNR), complementing the aforementioned.

When dealing with an international taxation issue, this is the precise order that must be followed and no other. That is, first, consult the DTT (which determines the authority to tax a certain income in a country), if there is one, and only when it resolves or does not anticipate certain issues, then resort to the internal regulations of the Non-Resident Income Tax.

4.5.1. Double Taxation Treaties

According to the website of the Ministry of Finance and Public Function, Spain currently has 103 DTTs, with 99 of them in force (with major countries worldwide), while the remaining 5 are in different stages of processing (these are the DTTs with Bahrain, Montenegro, Namibia, Peru, and Syria).

4.5.2. Non-Resident Income Tax

The Non-Resident Income Tax (IRNR) is a direct tax that taxes income obtained in Spanish territory by individuals and entities not resident in Spain.

Taxpayers

Taxpayers of this tax are:

i. Individuals and entities not resident in Spain who obtain income here, unless they are taxpayers of the Personal Income Tax (IRPF).

ii. Foreign national individuals who are residents in Spain due to their position or employment (e.g., members of diplomatic missions).

iii. Entities in a regime of attribution of foreign income with a presence in Spain.

Residence or non-residence in Spain will be measured according to the rules of IRPF and Corporate Income Tax (IS), depending on whether they are individuals or entities, respectively, in a negative sense. That is, only if individuals or entities are not considered taxpayers for IRPF and IS purposes, respectively, can they be taxpayers subject to this tax.

Appointment of Representative

Taxpayers of this tax who are not residents in another European Union member state will be required to appoint, in certain cases (e.g., when operating through a Permanent Establishment), an individual or legal entity resident in Spain to represent them before the Tax Administration regarding their obligations under this tax, and they must do so before the end of the deadline for declaring income obtained in Spain.

Failure to comply with the obligation to appoint a representative will be considered a serious tax offense, and the penalty will consist of a fixed pecuniary fine of €2,000. This fine will amount to €6,000 when it comes to taxpayers resident in tax havens.

Forms of Subjection

There are two forms of subjection to the tax:

a. Through Permanent Establishment (PE)

   Taxpayers who obtain income through a PE located in Spain will be taxed on the total income attributable to that establishment, regardless of where it is obtained. The taxable base of the PE will be determined, as a general rule, in accordance with the provisions of the general regime of Corporate Income Tax (IS), without prejudice to certain special provisions in force.

b. Without Permanent Establishment

   Taxpayers who obtain income without the intervention of a PE will be taxed separately for each total or partial accrual of income subject to taxation, with no possibility of any offset between them.

   Thus, as a general rule, the Taxable Base corresponding to income obtained without the intervention of a PE will be formed by its gross amount, determined according to the rules of IRPF.

   The main tax rates applicable to the Taxable Base of non-residents operating without a PE are:

   - In general, 24%.
   - For interest, dividends, and capital gains, as well as for taxpayers resident in another EU member state or the European Economic Area with which there is effective exchange of information, 19%.

In this case, the system of withholding and advance payments (the latter in cases of payment in kind) is crucial. In the IRNR, as it is a tax that applies to residents outside of Spain for whom the Public Treasury has less accessible information, payers are obliged to withhold and pay an

amount substantially equal to the final payment to the Tax Administration, avoiding even the settlement of the tax in many cases, as the obligation to withhold and pay fulfills the entire tax (i.e., the final tax).

4.5.3. Tax Havens (Non-Cooperative Jurisdictions)

While throughout this document we are using the term "tax havens" for better general understanding, it is necessary to clarify at this moment that the correct term currently is "non-cooperative jurisdictions" (broader), since the entry into force of Law 11/2021, of July 9, on measures for the prevention and fight against tax fraud in our country.

On February 10, 2023, an update of the Spanish list of tax havens was published in the Official State Gazette (BOE) through Ministerial Order. Consequently, Spain considers the following territories or regimes as tax havens:

1. Anguilla
2. Bahrain
3. Barbados
4. Bermuda
5. Dominica
6. Fiji
7. Gibraltar
8. Guam
9. Guernsey
10. Isle of Man
11. Cayman Islands
12. Falkland Islands
13. Northern Mariana Islands
14. Solomon Islands
15. Turks and Caicos Islands
16. British Virgin Islands
17. United States Virgin Islands
18. Jersey
19. Palau
20. Samoa, regarding the harmful tax regime (offshore business)
21. American Samoa
22. Seychelles
23. Trinidad and Tobago
24. Vanuatu

Also, on February 14, 2023, the Economic and Financial Affairs Council (**ECOFIN**) updated its list of non-cooperative jurisdictions, as follows:

1. American Samoa
2. Anguilla
3. Bahamas
4. British Virgin Islands
5. Costa Rica
6. Fiji
7. Guam
8. Marshall Islands
9. Palau
10. Panama
11. Russia
12. Samoa
13. Trinidad and Tobago
14. Turks and Caicos Islands

15. United States Virgin Islands
16. Vanuatu

Operations with residents in "non-cooperative jurisdictions" are subject to more thorough control. Likewise, certain tax benefits would not apply to them.

4.5.4. Obligation to Report Assets Abroad (Model 720)

There is an obligation for tax residents in Spain (both individuals and entities) to report certain assets and rights they own abroad, in compliance with a series of requirements. Individuals resident in Spain who are taxed under the special inpatriates regime are exempt from this obligation. Additionally, there is an exemption criterion based on accounting.

This obligation is fulfilled by completing and submitting the standardized Model 720 (informational declaration), which is made available by the Tax Agency.

The assets and rights subject to the reporting obligation are divided into the following blocks:

- Accounts in foreign entities.
- Securities, rights, insurance, and income.
- Real estate and rights over them.

To be obliged to submit Model 720 for the first time, the assets and rights in any of the blocks must exceed €50,000. For the obligation to submit Model 720 in subsequent years, there must have been an increase in valuation in any of the blocks of more than €20,000.

The submission of Model 720 is annual and takes place between January 1 and March 31 each year. Failure to submit Model 720, or its submission omitting or providing incomplete, inaccurate, or false data, is subject to sanctions by the Tax Agency.

4.6. Applicable Legislation

- Law 58/2003, of December 17, General Taxation Law (LGT).
- Law 35/2006, of November 28, on Personal Income Tax and partial modification of the laws on Corporate Income Tax, Non-Resident Income Tax, and Wealth Tax (LIRPF).
- Royal Decree 439/2007, of March 30, approving the Regulation of Personal Income Tax and amending the Regulation of Plans and Pension Funds, approved by Royal Decree 304/2004, of February 20 (RIRPF).
- Organic Law 8/1980, of September 22, on Financing of the Autonomous Communities (LOFCA).
- Legislative Decree 2/2014, of October 22, approving the consolidated text of the legal provisions of the Principality of Asturias regarding taxes ceded by the State.
- Law 14/2013, of September 27, supporting entrepreneurs and their internationalization.
- Law 27/2014, of November 27, on Corporate Income Tax (LIS).
- Royal Decree 634/2015, of July 10, approving the Regulation of Corporate Income Tax (RIS).

- Law 49/2002, of December 23, on the fiscal regime of non-profit entities and tax incentives for patronage.

- Law 37/1992, of December 28, on Value Added Tax (LIVA).

- Royal Decree 1624/1992, of December 29, approving the Regulation of Value Added Tax and amending Royal Decree 1041/1990, of July 27, regulating the census declarations to be submitted for tax purposes by entrepreneurs, professionals, and other taxpayers; Royal Decree 338/1990, of March 9, regulating the composition and use of the tax identification number, Royal Decree 2402/1985, of December 18, regulating the duty to issue and deliver invoices incumbent upon entrepreneurs and professionals, and Royal Decree 1326/1987, of September 11, establishing the procedure for the application of directives of the European Economic Community on the exchange of tax information (RIVA).Legislative Decree 1/1993, of September 24, approving the Consolidated Text of the Law on Transfer Tax and Documented Legal Acts (LITPAJD).

- Royal Decree 828/1995, of May 29, approving the Regulation of Transfer Tax and Documented Legal Acts (RITPAJD).

- Law 19/1991, of June 6, on Wealth Tax (LIP).

- Royal Decree 1704/1999, of November 5, determining the requirements and conditions of business and professional activities and participations in entities for the application of corresponding exemptions in Wealth Tax.

- Law 22/2009, of December 18, regulating the financing system of the Common Regime Autonomous Communities and Cities with Statute of Autonomy and amending certain tax regulations (LFCA).

- Law 29/1987, of December 18, on Inheritance and Gift Tax (LISD).

- Royal Decree 1629/1991, of November 8, approving the Regulation of Inheritance and Gift Tax (RISD).

- Legislative Decree 1/2014, of July 23, approving the Consolidated Text of the legal provisions of the Principality of Asturias on its own taxes.

- Legislative Decree 2/2004, of March 5, approving the consolidated text of the Law Regulating Local Finance (LRHL).

- Legislative Decree 1175/1990, of September 28, approving the fees and instruction for the Tax on Economic Activities.

- Legislative Decree 5/2004, of March 5, approving the consolidated text of the Law on Non-Resident Income Tax (LIRNR).

- Royal Decree 1776/2004, of July 30, approving the Regulation of Non-Resident Income Tax (RIRNR).

- Law 11/2021, of July 9, on measures for the prevention and fight against tax fraud, transposition of Directive (EU) 2016/1164 of the Council, of July 12, 2016, establishing rules against tax avoidance practices directly affecting the functioning of the internal market, amending various tax regulations, and regulating gambling.

- Order HFP/115/2023, of February 9, determining countries and territories, as well as harmful tax regimes, considered non-cooperative jurisdictions.

- Law 38/2022, of December 27, establishing temporary levies on energy and credit institutions and financial institutions and creating the temporary tax on the solidarity of large fortunes, and amending certain tax regulations.

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