











A great number of developments on personal and corporate taxation of particular relevance were published in December 2022.

The following is a summary of the main tax developments approved at the end of 2022—some of which are legally effective for fiscal year 2022 and others for fiscal year 2023 onward—and introduced not only by Budget Law, but also in different regulations.



A. Main developments with regards to Personal Income Tax (PIT), Wealth Tax and Temporary Solidarity Tax on Major Fortunes.

-  1. Beckham Law
-  2. Carried interest
-  3. Application of Wealth Tax to non-residents for indirect holding of real estate in Spain through foreign companies
-  4. New Wealth Tax rate in Catalonia
-  5. Tax rate increase on Personal Income Tax savings base
-  6. Temporary Solidarity Tax on Major Fortunes

B. Main developments with regards to Corporate Income Tax (CIT).

-  1. Limitation to offset the losses of consolidated groups' subsidiaries
-  2. Developments in Corporate Income Tax rates for micro-SMES and start-ups
-  3. Accelerated depreciation of new electric vehicles
-  4. Tax incentives for cultural sector

C. Main developments with regards to VAT, effective from 1 January 2023, in relation to the following areas:

-  1. Localisation closure rule for services actually used or operated in Spain
-  2. Regulation of VAT recovery in situations of bad debts and debtors in insolvency proceedings



3. Reverse charge rule

D. Other tax rates:



1. Financial institutions



2. Companies in energy sector



E. European Directive ensuring a minimum taxation of 15 %.



F. Special Taxation for the Balearic Islands.

TAX DEVELOPMENTS FOR 2023

A. Main developments in terms of Personal Income Tax, Wealth Tax and Temporary Solidarity Tax on Major Fortunes:

Beckham Law

The taxation for impatriates (*impatriados*), more commonly known as the Beckham Law, establishes that individuals acquiring their tax residence in Spain as a result of their moving to Spanish territory may choose to pay PIT as if they were non-residents, taking into account some particularities. Consequently, the applicable tax rate to the income obtained by these taxpayers is 24% for the first 600,000 euros and 47% onward.

This regime has suffered several developments as a result of the new law to promote the start-up ecosystem (*Ley de Fomento del Ecosistema de las Empresas Emergentes*), known as the Start-up Law.

The Start-up Law incorporates new cases that allow the taxpayers to levy by means of this tax regimen. These cases include, among others, the performance of an entrepreneurial activity, the provision of highly qualified professional services for start-ups, or to be the director of a company that is not considered an asset-holding company regardless the percentage of stake held in such company.

Carried interest

The Start-up Law provides for a specific taxation for the income obtained from the successful management of venture capital companies and certain investment funds, commonly known as carried interest.

This new regulation considers the carried interest as an income with a 50% exemption, provided that certain requirements are met, such as the compliance with a certain level of profitability that must be established in the company's bylaws or in the regulations of the corresponding company, or, in general, the ownership maintenance of shares or rights for a minimum period of five years.

This 50% exemption shall not be applied when special economic rights directly or indirectly derive from a company resident in a country or territory considered as a non-cooperative jurisdiction or with which there are no regulations on mutual assistance in the exchange of tax information.

The statewide regulation of carried interest is similar to the one already approved in Biscay and Álava. In Guipúzcoa and Navarre, the carried interest is regulated as income from movable capital.

Application of Wealth Tax to non-residents for indirect holding of real estate in Spain through foreign companies

By developing article 5 of the Wealth Tax Law, non-resident individuals become subject to Wealth Tax for holding real estate properties located in Spain through non-resident companies.

Therefore, the following shall be considered to be assets located in Spanish territory: securities representing the stake in the equity of any type of company, not traded in organised markets, and those whose asset consist, directly or indirectly, of at least 50% of real estate located in Spanish territory.

Insofar as the new tax refers to Wealth Tax for the determination of the taxable base, said development shall also affect the Temporary Solidarity Tax on Major Fortunes.

New Wealth Tax rate in Catalonia

The rate is increased for those taxpayers with a net taxable income of more than 20 million euros. From said amount upward, taxpayers shall be subject to a 3.48% rate.

Increase in tax rates on Personal Income Tax savings base

Rates for income over 200,000 euros and up to 300,000 are increased from 26% to 27%, and 28% for income over 300,000 euros.

Temporary Solidarity Tax on Major Fortunes

With effects for fiscal years 2022 and 2023, a new tax aimed to levy individuals' net worth over 3 million euros has been approved, establishing the maximum tax rate on 3.5%.

This tax shall be accrued every year on 31 December. The assets and rights shall be valued according to the provisions of the Wealth Tax Law, and the exemptions—including the reduction foreseen for Family Businesses and for primary residence—shall also be determined by said law.

A joint limit is established for this tax together with PIT and Wealth Tax. For practical purposes, the total sum of the three abovementioned quotas shall not exceed 60% of the personal taxable income, calculated according to Wealth Tax rules, although the maximum reduction of Wealth Tax quota shall not exceed 80%, as it occurs with the determination of the Wealth Tax quota.

In addition, in order to avoid a possible economic double taxation in relation to Wealth Tax, the amount paid for this tax may be deducted.

Non-residents are also subject to tax on assets and rights located in Spain.

B. Main developments in terms of Corporate Income Tax (CIT).

a. Limitation to offset the losses of consolidated groups' subsidiaries

Limitation to offset the losses of consolidated groups' subsidiaries

With exclusive effects for fiscal years beginning in 2023, only 50% of negative tax bases generated by group companies shall be included in the calculation of consolidated tax base.

Losses not offset in 2023 shall be included in equal parts, in tenths, for the 10 immediately following tax periods (i.e., from 2024 to 2033, both included). Therefore, instead of being offset through general deduction mechanisms, said integration shall be carried out over 10 years at a 10% rate.

Initially, this integration in tenths shall be carried out without taking into account the offsetting limit applicable to negative tax bases generated in fiscal years prior to 2023 (70%, 50% or 25% of the taxable income, as the case may be).

Developments in Corporate Income Tax rates for micro-SMES and start-ups

For tax periods beginning on or after 1 January 2023, the CIT rate is reduced to 23% (instead of 25%) for those companies having had a net revenue of less than 1 million euros in the previous tax period, provided that said companies are not considered asset-holding companies in accordance with article 5 of Corporate Tax Law.

In addition, for those companies considered start-ups, the CIT rate is reduced to 15% for the first four fiscal years once the taxable income is positive and the condition of start-up is acquired and maintained.

Accelerated depreciation of new electric vehicles

Depreciation shall be doubled for electric vehicles of FCV, FHCV, BEV, REEV or PHEV categories used for economic activities and that come into operation in fiscal years beginning in 2023, 2024 and 2025.

Tax incentives for cultural sector

The maximum limits of deduction for investments in Spanish and foreign film productions and audiovisual series are increased.

Certain developments are introduced with effects from 1 January 2022 with respect to incentives for the financing of Spanish film productions, audiovisual series or production or exhibition of live shows, insofar as the deduction for Spanish audiovisual productions and for musical and theatrical events shall be applied, improving therefore the incentive.

C. Main developments with regards to VAT, effective from 1 January 2023, in connection with the following areas:

Localisation closure rule for services actually used or operated in Spain

Under the previous regulation, services known as intangible (assignment of patents, licenses, trademarks, industrial or intellectual property rights, or goodwill, advertising and advisory services, law, consulting, auditing, translation, assignment of personnel, real estate leasing, etc.) rendered to entrepreneurs or professionals not established in the territory where VAT is applicable (known as "TAI" in Spanish) were subject to VAT if its actual use or exploitation was carried out in said territory.

As a result of the limitation of international competitiveness of Spanish companies derived from this rule and the doubts as to its compliance with VAT Directive, the following amendments are introduced:

- Intangible services rendered to entrepreneurs or professionals not established in the EU are not subject to VAT in any case, although their actual use or exploitation is carried out in Spain, except for leasing services of means of transport and insurance, reinsurance, capitalisation and financial services —the latter continue to be subject to VAT in Spain if their use or exploitation is carried out in said territory.
- Intangible services and leasing services of means of transport whose recipient is a final consumer not established in the EU shall be subject to VAT in Spain if their actual use is carried out in the territory where the tax is levied.

Regulation of VAT recovery in situations of bad debts and debtors in insolvency proceedings

On the one hand, with regard to bad debts:

- The means that can be used to claim payment from the debtor are made more flexible (so that it is not necessary to make a judicial claim or notarial request),
- the deadline for issuing a rectification invoice is extended (from 3 to 6 months after 1 year from the date the transaction is accrued), and
- when the debtor is a consumer (not a businessman or professional), the invoice minimum amount on which VAT can be recovered is reduced from €300 to €50.

On the other hand, with respect to insolvency claims, VAT recovery is allowed when the recipient is not established in the territory where the tax is levied, provided that the recipient is affected by insolvency proceedings declared by a court of another Member State.

Reverse charge rule

On the one hand, reverse charge is no longer applicable in cases of real estate leasing when the lessor is a non-resident in the territory where the tax is levied (TAI, in Spanish), so that in these cases the non-resident lessor becomes the taxpayer. This amendment shall also be applied to real estate leasing brokerage services provided by non-residents in the territory where the tax is levied.

On the other hand, two new cases when the reverse charge rule is of application are introduced: deliveries of (i) plastic waste and scraps, and (ii) waste and unusable textile articles (rags, ropes, etc.).

D. Other tax rates:

Financial institutions

For fiscal years 2023 and 2024, a temporary tax rate of 4.8% shall be required for financial institutions with revenues over 800 million euros. This tax rate shall be applied on interest

and commission income and expenses derived from the activity carried out in Spain during the previous calendar year.

Companies in energy sector

For fiscal years 2023 and 2024, a temporary tax rate of 1.2% on Spanish turnover shall be required for certain companies in energy sector.

E. European Directive ensuring a minimum taxation of 15%:

Directive (EU) 2022/2523, of 14 December, on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the European Union comes into force.

This Directive shall apply to those enterprise groups with a revenue of at least 750 million euros. Those groups shall be subject to a 15% tax rate applicable to Corporate Tax in every jurisdiction where they operate. In any case, the Directive provides for certain exemption events for certain sectors, jurisdictions and types of activities.

F. Special Taxation for Balearic Islands:

A Special Taxation for Balearic Islands has been approved, providing two new measures: Reserve for Investments in the Balearic Islands and Special Taxation for industrial, agricultural, livestock and fishing companies.

- The Reserve shall be applied in a similar manner to the Reserve for Investments in Canary Islands and shall consist of a reduction in the taxable income for taxpayers subject to Corporate Tax and Income Tax for Non-Residents by the allocation of this reserve. Said reduction shall be limited to 90% of the part of profit derived from establishments located in the Balearic Islands. In addition, the amounts allocated to the aforementioned Reserve shall be invested —within a maximum period of three years— in any of the following investments:
 - Acquisition of tangible or intangible assets, or assets contributing to the improvement and protection of the environment in the Balearic Islands or to R&D&I expenses.
 - Creation of jobs directly related to the aforementioned investments.
 - Acquisition of shares in entities carrying out the aforementioned investments.
- The Special Taxation for industrial, agricultural, livestock and fishing companies shall allow the taxpayer subject to Corporate Tax and Income Tax for Non-Residents to apply a reduction of 10% to the corresponding tax for the income derived from the

sale of tangible goods produced in the Balearic Islands by agricultural, livestock, industrial and fishing producers. Said reduction shall require that the average number of employees shall be maintained and, in the event that said average number shall be incremented, it shall be increased to 25% (and maintained for a minimum period of 3 years).

Taxpayers subject to IRPF and carrying out economic activities shall also have access to both incentives.

This special taxation shall be temporary and, unless otherwise extended, shall be in force from 1 January 2023 to 31 December 2028.

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