

GPM auditors associats, s.l.

Doing Business
in
Spain

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1. GENERAL INFORMATION

Government

Spain is a sovereign state, member of the European Union. According to the Spanish Constitution, Spain is a democratic state, in the form of a parliamentary monarchy. The current king, acting as head of state is King Phillip VI. Each presidency lasts four years, the current president is Mariano Rajoy, member of the Partido Popular (People's Party), who began his second term by the end of 2016.

At a territorial level, Spain is divided in to 17 Autonomous Communities, and its capital is in Madrid. The official currency is the Euro since its introduction.

In accordance with the Constitution, and according to its Article 3.1, "Castilian is the official Spanish language of the State. All Spaniards have the duty to know it and the right to use it." According to article 3.2, "The other Spanish languages shall also be official in the respective Autonomous Communities in accordance with its Statutes".

Catalonia is an autonomous community, with a Statute that embeds the rights of the Catalans. The Catalan Statute recognizes that: "In reflection of the feelings and the wishes of the citizens of Catalonia, the Parliament of Catalonia has defined Catalonia as a nation by an ample majority." Currently, due to the political crisis that affects Catalonia and Spain, due to the Catalans' will to hold a referendum the Spanish Government deemed illegal, Catalonia's status as an autonomous community has been eliminated, with the Spanish Government taking control of executive power in the region through the application of Article 155 of the Spanish Constitution. After the elections in September, the winning block was the pro-independence one, formed by JuntsXCat, ERC and CUP, with effective majority of seats in Parliament.

In accordance with Article 2 of the Spanish Constitution, Catalonia is recognized as a historical region, and thus, according to Article 5 of the Catalan Statute: "The self-government of Catalonia is based on the [...] recognition of the Generalitat's unique position in relation to civil law, culture, the projection of these in the area of education and the institutional system [...]". Catalonia's own language is Catalan, and as such, "Catalan is the language of normal and preferential use in Public Administration bodies and in the public media of Catalonia, and is also the language of normal use for teaching and learning in the education system." In Catalonia, Catalan is the co-official language along with Castilian.

Physical and geographical characteristics

Spain has an extension of 505.370 Km², being the fourth largest country in the continent, after Russia, Ukraine and France; and it is the second in the EU after France. Catalonia has an extension of 32.113 Km², being the sixth largest community in Spain.

The peninsular territory shares land borders with France and with Andorra to the north, with Portugal to the west and with the British territory of Gibraltar to the south. In its African territories, it shares land and sea borders with Morocco. In addition, Ceuta and Melilla, the Balearic Islands in the Mediterranean Sea, the Canary Islands in the Atlantic along with a series of islands and islets complete the set of territories off the peninsular coasts. Catalonia, individually, shares land borders with the communities of Aragon and Valencia, and France and Andorra.

The geographical position of Spain is seen as a key market from a geopolitical point of view, as the main link between Europe and North America, coupled with common history shared with Latin American countries. It is also the gateway to the Mediterranean and European country closest to the African continent.

Demographic situation

With a population of 46,549,045 people, Spain is located in the position 29 in the table of population and has an average population density of 92 inhabitants per km². The Largest cities by population are Madrid with 3.1M inhabitants, Barcelona with 1.6M and Valencia with 0.7m.

Spain is the number 11 if we consider its GDP. Its public debt in 2017 was 1,144,298 million euros, which represents 98.3% of GDP. The debt per capita is 24,583 euros per inhabitant.

The GDP per capita was in the year 2017 of 25,000 euros, which is located in the position 30 of the 195 countries in the ranking of per capita GDP.

In relation to the active population, it is now 22.8 million, and the rate of unemployment is, in February 2018, at 16.1%, with a downward trend that started in the year 2012. The expectation is that the year 2018 is closed with an unemployment rate of about 15%.

In the last annual rate of change of the CPI published in Spain is from March of 2018 and was 1.2%.

In terms of the Human Development Index, or HDI, prepared by the United Nations to measure the progress of a country indicates that the Spaniards have a good quality of life.

In regards to Catalonia, it is the second most populated community, after Andalusia, with a population of 7.453.957 inhabitants.

If we consider GDP, Catalonia is the first economy of Spain, with a GDP of 211.915 million Euros. In regards to GDP per capita, Catalonia's GDP is higher than that of Spain, thus reflecting its higher standard of living compared to the rest of communities in Spain.

The rate of unemployment in Catalonia is 4 points lower than that of Spain, at 12.2% of the active population, it is one of the communities with the lowest unemployment rates

The Spanish economy

The productive fabric is characterized by a high weight of the services sector and by a low presence in the industrial sector. Although this has not always been the case, National Accounts data and the Active Population Survey, show that in the decades of the years 70 and 80 the weight of industry and energy in the national production and employment exceeded 25%.

The data in table 1 show, however, that since 1970 Spain has a gradual reduction of the contribution of industry in the GDP, while the services sector has gained more weight over time. Thus, since 1970 the services sector is of growing importance going on to represent the 46% of GDP in 1970 to 75% in 2015. This outsourcing is common in the process of economic development of most developing countries. In this sense, Spain is a service economy and has a significant number of companies that are very competitive in this sector. A good part of the Spanish investment abroad and exports are in the sectors, banking, distribution, engineering, management and construction of infrastructures (airports, motorways, etc.), water management and waste, hotels, production and distribution of energy, renewable energy, insurance, telephony, etc.

According to the Bank of Spain in the year 2016 exports of non-tourist services accounted for 60,000 million euro, a 6.8% more than in the year 2015. In contrast the exports of goods grew by 1.7% and a 7.1% the tourist services.

Agriculture and fisheries Industry, Energy, Construction, Services

Table 1. Structure of the production in the Spanish economy (in percentage)

	Agriculture and fisheries	Industry and energy	Construction	Services
1970	11,00%	34,00%	8,80%	46,20%
1980	7,00%	28,60%	7,90%	56,50%
1990	5,50%	25,10%	8,80%	60,60%
2000	4,10%	20,60%	10,10%	65,20%
2005	3,00%	18,80%	11,60%	66,60%
2010	2,60%	17,20%	8,80%	71,40%
2012	2,50%	17,20%	6,30%	74,00%
2013	2,80%	17,10%	5,60%	74,50%
2014	2,50%	17,10%	5,40%	75,00%
2015	2,50%	17,10%	5,50%	74,90%
2016	2,60%	17,80%	5,60%	74,10%

Source: INE (2017)

In terms of employment, and since the decade of the 80's (see table 2), the industry began to lose importance. Thus, while the population employed in the service sector has been increasing its percentage of the total number of workers, the industry has been reducing its stake.

Table 2. Structure of employment in the Spanish economy (in percentage)

	Agriculture and fisheries	Industry and energy	Construction	Services
1970	29,30%	25,30%	8,90%	36,50%
1980	18,60%	27,20%	9,30%	44,90%
1990	11,50%	23,70%	9,80%	55,00%
2000	6,80%	18,80%	12,00%	62,40%
2005	5,30%	16,20%	13,80%	64,70%
2010	4,60%	13,80%	9,30%	72,30%
2012	4,70%	13,50%	6,80%	75,00%
2013	4,80%	13,40%	6,10%	75,80%
2014	4,60%	13,40%	5,90%	76,20%
2015	4,30%	13,60%	5,80%	76,20%
2016	4,40%	13,90%	5,80%	75,80%

Source: INE (2017)

Table 2 also shows a dramatic increase in the participation of the construction sector in total employment up to the year 2005. However, the crisis has changed the trends, as well as of 2005, the construction reduces their participation in employment, observing at the same time a major weight loss in terms of production.

The industry, which as we have already mentioned had a strong contraction until the year 2010, consolidates its participation from that year, at least in terms of production (Table 1) and is falling slightly in terms of employment (Table 2).

In 2016, there seems to be a slight recovery of the agricultural and industrial sector in terms of employment (Table 2) and production (Table 1), especially the manufacturing industry. Instead, it appears that they lose weight the services sector and construction.

2. SETTING UP A COMPANY IN SPAIN

Once the foreign investor has decided to operate or invest in Spain, there are several alternatives.

Constitution of Spanish Society with its own legal personality	There are several types of entities to invest in Spain, being the most used the Joint-Stock Companies (S.A.), and mainly, the Limited Liability Companies (S.L.)
Limited Liability Entrepreneurial	Development of the activity directly by physical person in the event of a comply with certain requirements
Branch office or permanent establishment	These figures lack legal personality so that its activity and its legal responsibility will always be directly linked to the foreign company
Joint ventures	Allow sharing the risk and combine resources and experiences
Without constituting an entity or associate with other already-existing entities or without physically establish an operations centre in Spain	The alternatives are the following: <ul style="list-style-type: none"> ◦ Distribution Agreement ◦ Operate through an agent ◦ Operate through a broker ◦ Establishment of a franchise
Asset acquisition	Acquisition of real estate located in Spain or business acquisition
Risk Capital	Investment in risk-capital entities

Each of these commercial alternatives offers several advantages that must be verified, both from the legal point of view as a prosecutor, with its potential drawbacks.

The most common corporate forms provided by the Spanish commercial legislation are the Joint-Stock Companies “Sociedad Anónima (S.A.)” and the Limited Liability Company “Sociedad Limitada (S.L.)”.

The main differences between Joint-Stock Companies and Limited Liability Companies are the following:

	S.A.	S.L.
Minimum capital	60.000 Euros	3.000 Euros
Outlay in the constitution	A minimum of 25% and the share premium, if any.	In its entirety.
Contributions	Required report of the independent expert on the non-cash contributions.	Not required report of the independent expert on the non-cash contributions, while the founders and partners are jointly and severally liable for the authenticity of the non-cash contributions made.
Actions/ shares	Are securities. You can issue bonds and other securities that acknowledge or create a debt, including obligations convertible into shares.	Are not securities. You can issue bonds and other securities that acknowledge or create a debt.
Transfer of actions/ shares	Depends on its representation (account entries, book, etc.) and their nature (or bearer). As usual, are freely transferable, except statutory provision.	Must be included in a public document. Usually the shares will not be freely transferable (unless they are purchased by other partners,ascendants,descendants or companies of the same group). Thus, except statutory provision to the contrary, the law provides for a right of first refusal in favour of the remaining partners or of society itself, in the event of a transfer of shares to a person other than those indicated.

	S.A.	S.L.
Modification of Statutes	Requires a report of the board of directors or shareholders, as the case may be, they	Does not require report.
Place of holding of the General Meeting	Governing bylaws. If nothing said, in the municipality of the registered office.	
Quorum of attendance to the General Board and majorities	Different quorums and majorities in function of first or second call and the content of the agreements. These may be elevated by the statutes.	Different majorities are set according to the contents of the agreements, which may be elevated by the statutes.
Right to attend the General Meetings	You can require a minimum number of shares to attend the General Meeting.	You cannot restrict this right.
Number of members of the Board of Directors	Minimum: 3. There is no maximum limit.	Minimum: 3. A maximum of 12 members.
Term of office administrator	Maximum 6 years. Re-eligible for periods of the same duration.	May be undefined.
Issuance of obligations	Emissions of obligations may be used as a means to raise funds. You can issue or guarantee obligations convertible into shares.	<p>Emissions of obligations can be used as a means to raise funds., while the total amount of emissions shall not be more than double of the own resources of the company, except that the issuance is guaranteed with mortgage, with a pledge of values, with public guarantee or a guarantee of solidarity credit institution.</p> <p>In case the issue is guaranteed with collateral solidarity of mutual guarantee society, limit, and other conditions of the guarantee shall be determined by the ability of the Company at the time of loan, in accordance with their specific regulations. You cannot issue or guarantee obligations convertible into shares.</p>

Any citizen or foreign legal person may be a member of a Spanish society whenever you request the NIE or NIF.

By the same token, any citizen or foreign legal person can also be administrator of a Spanish society, with the same requirement to apply for the NIE or NIF.

Legal Proceedings

The ordinary formalities of constitution and the costs incurred are similar in both social and are detailed in the following table.

PROCEDURES TO SET UP A MERCANTILE COMPANY

REQUEST	APPLICABLE TO ANY S.A. OR S.L.
<p>1. Certificate of designation</p>	<p>Request to the Central Mercantile Register by the person concerned or his or her authorized (you can include up to 5 alternative social denominations). The Central Mercantile Register will issue a certificate of designation for the new society. The denomination has a duration of six months from the date of issue.</p>
<p>2. Provisional N.I.F. Request</p>	<p>Before the AEAT using the model 036</p>
<p>3. Opening bank account</p>	<p>Opening a bank account in the name of the entity for the disbursement of the social capital. Once the disbursements by the founding partners, the bank must issue the certificates of disbursement.</p>
<p>4. Act of manifestations of real ownership</p>	<p>The founding partners, should provide a notary act of manifestations of the beneficial owner in compliance with the Law 10/2010, of 28 April.</p>
<p>5. Grant writing before a notary</p>	<p>Before a notary public, the constituent partners awarded public deed indicating and including:</p> <ol style="list-style-type: none"> 1. - Accreditation the identity of the founding partners. 2. - Manifestation on the holder. 3. - Justification of the contribution and the means of payment of the same. 4. - Certificate of designation for the use of the name issued by the Mercantile Register. 5. - The Articles of Association of the company. 6. - Identification and acceptance of the directors of the company.

REQUEST	APPLICABLE TO ANY S.A. OR S.L.
	<p>7. - Declaration of the foreign investment before the Registry of Foreign Investment of the Directorate General of Trade and Investment of the Ministry of Economy, industry and competitiveness.</p> <p>8. - Identification of economic activity code that describes the activity according to the National Classification of Economic Activities (NACE).</p> <p>9. - The writing must be granted within three months following the issuance of the certificate of title issued by the Central Mercantile Register.</p>
6. Application for registration in the Register of the registered office.	The deed of incorporation shall (i) in the form of telematics by the notary or (ii) in person by the interested party.
7. Term of qualification and Registration Register.	15 days from the date of submission of the deed unless just cause, in which case, the period shall be 30 days.
8. Obtaining final N.I.F.	By presenting before the AEAT a new model 036 and the original copy of the deed registered in the Mercantile Registry.
9. Census procedures for tax purposes and labour.	<p>Incorporation to Tax Economic Activities: presentation of the Model 036. Societies that will indicate the description of the activity that will develop and the reason you are exempt from this tax.</p> <p>Incorporation to Value Added Tax (I.V.A.)</p> <p>Obtaining the license of opening/operation or sufficient qualification for the exercise of the activity outside the Town Hall.</p>

The constitution of a Joint-Stock Company or a Limited Liability Company lasts approximately 6 to 8 weeks.

The board of these companies are as follows:

◦General Meeting of shareholders:

- Ordinary General Meeting: it has to meet within the first 6 months of each year to approve and censor the social management and resolve on the application of the result.

- Extraordinary General Meeting: meets to discuss any other matter of social interest.

◦General Meetings:

- General meetings shall be convened by the board of directors of the company.

- May also be convened at the request of a minority of partners or shareholders representing 5% of the capital.

The way to notify:

- On the website of the company, if created, registered and published in the terms of the LSC.

- In the BOE (Official Spanish Bulletin) and in one of the newspapers of major circulation in the province where the home is located.

- The statutes may establish any other individual communication procedure and written to ensure the receipt of the notice by all partners.

Quorum of attendance at General Meetings:

- In the case of the Joint-Stock Company (S.A.), will depend on whether it is the first or second call. The quorum may be modified in the Bylaws.

- In the case of the Limited Liability Company (S.L.), the majority depend on the type of agreements. Majorities can be modified in the Bylaws.

The board of Directors:

- The Sole Administrator

- The Administrator

- The Manager

- The Board of Directors

Duration of the Administrators' mandate:

- In the case of the Joint-Stock Company (S.A.) may not exceed 6 years and may be re-elected for periods of equal maximum duration.
- In the case of the Limited Liability Company (S.L.) will hold their position indefinitely, unless the Bylaws establish a specific term.

Remuneration of Directors:

- It is free of remuneration except as otherwise provided in the Bylaws.

Obligations of the Employer

All those companies formed in Spain should take into account at least the following obligations:

◦Commercial:

- Formulation and approval, where appropriate, of the annual accounts by the General Board.
- The annual accounts in the Mercantile Registry.
- Keeping telematics business books of society to the Mercantile Registry.

◦Accounting:

- Orderly keeping of the accounts.
- Minimum: inventory books, annual accounts and journal.

Branch

Branches are administrative divisions of an entity and can be created both by individual entrepreneurs and by companies. They lack legal personality, as it is not a different society and legally independent of the main, but instead is a delegation of the same company that is established in another territory. Will be taxed by the Tax and, in his absence, by means of the tax on the income of non-residents (permanent establishment) for the whole of the income obtained in Spain.

Branches should observe the following peculiarities to determine their tax base: the operations between the branch and the array is evaluated at market prices; shall not be deductible payments at the branch office of the central concept of royalties, interest, commissions, paid in consideration of technical assistance services or for the use of rights or property will be deductible expenses, which correspond to the branch office, provided that they are properly accounted for and justified.

Joint venture

Is a type of contract between two or more companies for the achievement of a common goal. Joint venture is an English word that comes to say business collaboration. In short, it is the union of two or more companies with the aim of developing a business or enter a new market during a certain period of time, with the aim of making profits.

This type of contract is characterized because the companies:

- Both share the final objectives, such as the control over the common project.
- Share knowledge, whether technological, product, market, etc.

This type of contract of agreement between companies is usually developed when a specific project requires a high investment, both capital and time, to be undertaken separately.

Another feature of this type of contracts is that companies at any time lose their identity, still completely outside, regardless of the common project that is underway. That is, each one of the companies continues to develop its main activity.

Representative office

This figure is not provided for in the Spanish legal system, but in the agreements to avoid double taxation agreements signed by Spain, in that they define it as the one fixed place of business, established by a non-resident company, which develops advertising and informative functions on matters which are of interest to the array with respect to trade, financial and economic, without this lead to the realization of economic activities.

Obligations of audit

An entity is obliged, among other reasons, to audit its annual accounts when it exceeds the limits laid down by the regulations referred to in article 257 of Royal Legislative Decree 1/2010, of 2 July, consolidated text of the Capital Corporations Act.

The limits posed by the obligation to audit the annual accounts of a company, according to the rules referred to, are that the company meets for two consecutive years, as of the date of the end of each financial year, two of the three requirements that are listed below:

- When the total assets exceed 2,850,000 euros.
- When the net amount of turnover exceeds 5,700,000 euros.
- When the average number of workers during the financial year exceed 50.

In addition, there are other requirements which oblige companies to audit their annual accounts, they are laid out in the Rules of Audit (Royal Decree 1517/2011), which is made mandatory under the auditing of accounts, and that are the following:

- That during a fiscal year received subsidies or aids, with budgets of Public Administrations or funds of the European Union in the amount accumulated total of 600,000 euros.
- The entities that carry out contracts with public administrations that exceed 600,000 euros and these represent more than 50% of the total turnover.
- Certain foundations that exceed at the close of the financial year two parameters of the following:
 - a) 2.4 million euros of assets.
 - b) Commercial activity of more than 2.4 million euros.
 - c) When the average number of employees exceeds 50.

The review of the annual accounts shall be carried out by independent auditors registered in the Official Register of Auditors (ROAC).

Bankruptcy

Bankruptcy is a legal procedure designed to solve the problems of insolvency and lack of liquidity of a business, a procedure which seeks, on the one hand, that creditors can be paid and, on the other hand, the search for solutions for business continuity and avoid bankruptcy.

It is applicable to both a physical person, such as a self-employed, as well as a legal person. The majority of creditors in Spain are requested of companies.

It is a system that helps companies and self-employed professionals in the event of the insolvency to articulate an orderly mechanism to deal with the debts. Through the application of the competition of creditors, is placed the matter in the hands of a judge and can paralyze executions of debt or to reduce and defer the payment of the debt with the Mercantile Court.

The arrangement with creditors is regulated in the Law 22/2003, of 9 July, whose aim is not total dissolution of the company and encourages the conservation of heritage. In this policy, the partner puts his heritage as a mortgage guarantee and is the last to collect on the debt.

◦Bankruptcy request types

There are two types of request:

- *Voluntary request:* the one made by the person or the person responsible for the society in the case of the companies. In these cases, the individual entrepreneur or company is who, having knowledge of the possible bankruptcy of the company or of an insolvency situation not yet declared, has the obligation to submit the request of the competition within a maximum period of two months. If you admit process will be a voluntary bankruptcy. Not to apply the death penalty is exposed to fines or even criminal charges because the judge may think that the bankruptcy was caused for illicit purposes.
- *Forced Request:* When the arrangement with creditors is the result of a requirement of a creditor or of any of the partners of the company, generally dissatisfied with the direction. A judge shall process the application of creditors and decide whether or not to approve it.

◦ Stages of bankruptcy

Although the law provides six stages, in practice there are four stages of the bankruptcy for an SME:

- *Previous Acts*: it is the phase in which the bankruptcy is requested, the application is reviewed and it is established if it is pertinent or not. It is a broad and complex preliminary phase that shuffles the budgets of the declaration of bankruptcy with the procedure for the declaration of bankruptcy.

- *Common phase*: this phase begins with the declaration of bankruptcy and concludes with the presentation of the report. The law exempts of guilt repressive to the debtor and ensures, to the extent possible, that the creditor finished charging its debt, although you will be asked to impose a number of obligations. In addition, once entered at this stage in the proceeding, it is paralysing the executions and prevents the sale of assets at the request of a single creditor.

The authentic starting point necessary to work is to know how much the insolvent debtor has and how much he owes, which is the same as determining the bankruptcy assets and liabilities.

- *Resolution Phase*: at the end of the common phase, to which the order of the Judge puts an end, opening the resolution stage.

The law provides for two possible resolutions: either the convention or the liquidation. Regardless of the process, if you choose to deal with the liquidation can still process a "backward" proposal for a convention and if you opt for the Convention (preserve society) but the breach, shall be dealt with the total liquidation.

The settlement is the least desirable solution, but it is preferable that it is determined that the continuity of the company will lead to the assumption of a defaulted debt.

- *Determination of responsibility*: the law is implied in this phase, which will only proceed if the adoption of the Convention is very expensive and if there is an opening of the liquidation or a breach of the Convention.

3. THE TAX SYSTEM

The Spanish tax system is modern and competitive and is composed of three types of taxes: taxes, fees and special contributions.

At the territorial level there are three levels of taxation in Spain (State, regional and local levels).

In Spain there are two types of State taxes:

• *Direct Taxes:*

- Corporate Tax (IS)
- Income Tax (IRPF)
- Tax on the income of non-residents (IRNR)
- On Assets (affect only physical people)
- Wealth Tax (IP)
- Tax on inheritance and donations (ISD)

• *Indirect Taxes:*

- Value Added Tax (VAT)
- Tax on Patrimonial Transfers and Documented Legal Acts (ITP and AJD)
- Special taxes
- Customs duties
- Tax on insurance premiums

Because of its importance, it is necessary to refer to the formal obligation of information assets and rights abroad whose violation affects the personal income tax and corporation tax.

Corporate Tax

Corporate Tax is regulated by Law 27/2014, of 27 November, the Tax on Societies and the Royal Decree 634/2015, of 10 July, which approves the Regulation on Corporation Tax.

The fundamental fact to determine whether or not to apply tax to an entity is resident for tax purposes. It is considered that an entity is resident in Spain for tax purposes if it meets any of the following requirements:

- That is incorporated under the laws of Spain
- Which has its registered office in Spain
- Which has its registered office or place of effective management in Spain

The main aspects to take into account of the tax are the following:

a) Taxable base

There are three regimes for the determination of the tax base:

- the direct estimation regime
- the regime of indirect estimation
- the objective assessment scheme

The regime that is generally applicable is the direct estimation, in which the tax base is defined as the difference between revenue and expenditure for the period. It is estimated on the basis of the accounting result. However, the application of the accounting principles can cause the accounting result can be understood as not representative of the real capacity of the passive subject, so that the same must be corrected through the application of the fiscal principles laid down in the regulations of the tax.

In general, expenses relating to the business are deductible if they are properly accounted for and supported and served to the principles of imputation.

b) International Tax Transparency

In the Corporate Tax is taxed by the "source of income"; however, the international tax transparency regime forced to pay taxes, not by the actual income obtained by the taxable person, but by the obtained by a non-resident entity owned by the taxable person, in case of certain circumstances. In short, this is a regime of "attribution" of income.

Is applicable when:

- The taxable person (Spanish Society), alone or in conjunction with persons or entities connected, has a stake equal to or greater than 50% in the capital, own funds, the results or the voting rights of the non-resident entity.
- The tax paid by the non-resident tax (or similar) for the net income attributable is less than 75% of what they would have been in accordance with the rules.

c) Valuation at market prices

General rules, assets are valued in accordance with the criteria laid down in the Code of Commerce. However, in general, changes in value caused by applying the fair value will not have tax purposes while not to be charged to the profit and loss account.

d) Deductibility of financial expenses

In Spain have traditionally been deductible financial expenditure, although from a few years ago, has established a rule of general limitation to the deductibility of financial expenses.

In particular, the standard establishes a rule of general limitation to the deductibility of financial expenses.

As well, are not deductible net financial expenses that exceed the limit of 30% of operating profit (EBITDA) of the exercise, defined as net financial expenses The financial excess of expenditure over income arising from the transfer to third parties of own capital earned in the tax period; however, in any case, be deductible expenses net of tax period for an amount of 1,000,000 euros.

Non-deductible financial expenses resulting from the application of this limit will be deductible in the following tax periods, together with the corresponding tax period, with the same limit.

e) Value adjustments

Depreciation: depreciation is only a tax deductible expense if the depreciation is effective and is accounted for (with certain exceptions).

There are several general tax depreciation methods:

- *Linear method*: This method is the most commonly applied by the taxpayers of the tax and is depreciated linearly assets, that is to say, applying every year a percentage of the cost of the assets, in accordance with the percentages within a range for each type of asset.
- *Depreciation degressive (constant percentage)*: This method, which can be used to amortize all types of goods except buildings, furniture and household facilities, allows the depreciation will be moved to the first years of useful life of the asset by application of a coefficient to its book value, when the effective depreciation is greater in those early years.
- *Method of double-digit numbers*: As in the previous case, this method can be used to amortize any kind of property except buildings, furniture and household facilities, determining the amount of digits in function of the amortisation period established in amortization tables of the officially approved.
- *Other depreciation methods*: Companies that, for technical reasons, wish to repay their goods by applying coefficients other than those laid down in the official tables and want to avoid the uncertainty generated by the need to prove the "effectiveness" of the depreciation, may develop a depreciation plan shall apply provided that it will be accepted by the Tax Administration.

Loss of value of assets:

- By deterioration of credit by insolvency of debtors: this provision covers the risk of possible insolvency of debtors. The only supported method for tax purposes is the allocation of its balance, individualized by the that are analysed individually the characteristics of each of the balances of doubtful loans. For the allocation to the provision is deductible at the time of the chargeable event must attend one of the following circumstances:
 - That is after the period of six months from the expiration of the obligation.
 - The debtor is declared in a situation of competition.
 - The debtor is prosecuted for the crime of concealment of assets.

Obligations have been claimed in court or are the subject of litigation or arbitration procedure.

- By deterioration of representative values of the participation in the capital of entities. Impairment losses, both of holdings in listed entities as holdings in unquoted entities, are considered to be non-deductible expenses since the exercise started from 1 January 2013. Participation in listed entities: In the case of entities listed on a regulated market, the reversal of the impairment losses recorded and deducted in periods started before 1 January 2013 should be integrated into the taxable base of the period in which the accounting recovery.
- Impairment for the loss of value of items of property, plant and equipment, real estate investments and intangible assets, including goodwill, equity instruments and debt securities (fixed income). Provisions: the general approach in relation to the provisions of your deductible, to the extent that they are properly accounted for. However, the law establishes certain exceptions.

f) Non-deductible expenses

The standard contains a comprehensive listing of non-deductible expenses. In particular, are not deductible:

- Those that represent a remuneration of own funds.
- The derived from the accounting for taxes on societies.
- Fines and penal and administrative sanctions, the surcharges of the executive and the surcharge for untimely declaration without notice.
- The loss of the game.
- The donations and donations, while the donations made to certain non-profit entities or which have as their object properties inscribed in the Register of Assets of Cultural Interest or goods linked to the contribution to the conservation of those goods or the performance of activities of general interest, will be entitled to a deduction in 35% share of the donation, with the limit of 10% of the taxable income of the tax period.
- However, expenses for hospitality to customers or suppliers will be deductible up to a limit of 1 percent of the net amount of the revenue for the tax period.
- Costs of actions contrary to the legal system.

- The costs of services corresponding to operations carried out, directly or indirectly, with persons or entities resident in tax havens, or they are paid through persons or entities resident in the same.
- Financial costs accrued in the tax period, arising from debts with entities of the group, except that the taxpayer attesting that there are economic reasons that are valid for the realization of such operations.
- The costs arising from the termination of the employment relationship, ordinary or special, or of the business relationship of counsellor or administrator of the society that exceed, for each recipient, the amount of 1,000,000 euros.
- Expenditure transactions with related persons or entities, as a result of a different tax rating in these, do not generate income or generate an income exempt or subject to a nominal tax rate lower than 10 percent.

g) Book capitalization

Current Law introduce an important novelty in virtue of which will not be taxed for the benefit of the part of the subject that is intended to be used in the constitution of a restricted reserve (capitalization), without establishing any investment requirement of this book in any particular type of asset. This measure is to enhance the business capitalization through the increase of the net assets and, therefore, encourage the sanitation of the companies and their competitiveness.

In particular, taxpayers are taxed at a tax rate of 25 percent, the newly created entities and entities that are taxed at 30 percent, shall be entitled to a reduction in the tax base of 10 percent of the amount of the increase of its own funds, provided that certain requirements are met.

h) Compensation of negative tax bases

From the financial year 2015 has been removed the time limit for the compensation of negative tax bases with positive future bases (which also applies to the slopes of compensation at the beginning of the exercise).

However, the compensation of these negative tax bases is limited quantitatively.

- In general, the entities for which a net amount of turnover in the previous 12 months is less than 20 million euros will be able to compensate for negative tax bases up to the limit of 70% (60% in fiscal year 2016) of the positive tax base prior to his compensation.

- The entities for which a net amount of turnover in the previous 12 months out of at least 20 million euros will be able to compensate for negative tax bases with the following limits since the exercise started in 2016:

- The 50%, when the net amount of the institution is between 20 and 60 million euros.

- The 25%, when the net amount of turnover exceeding 60 million euros.

j) Tax rates

The general type of lien for taxable by personal obligation to contribute is 25% of the exercise initiated as from 1 January 2016 onwards.

However, special tax rates applied to some Collective Investment Institutions, including real estate investment funds (1%), some cooperatives (20%) or to entities that are dedicated to the research and exploitation of hydrocarbons (30%).

In the case of listed corporations to invest in the real estate market (hereinafter SOCIMI) the tax rate is 19%. However, those entities whose shareholders with a share greater than 5% of its capital are taxed on dividends distributed to a rate equal to or greater than 10% shall be at a rate of 0%.

j) Income generated by permanent establishments

Shall be exempt the positive income obtained abroad through a permanent establishment situated outside the Spanish territory when the same has been subject to a tax exempt not identical or similar to this tax with a nominal rate of at least 10%.

Shall be exempt, likewise, the positive income deriving from the transfer of a permanent establishment in respect of which the requirement of taxation with a nominal rate of at least 10 per cent in the terms set forth above.

Finally, it regulates the possibility of operating in a country through permanent establishments differentiated, in which case the application of the scheme of exemption or deduction will be made for each of the permanent establishments independently.

k) Withholding taxes and payments on account

Certain sources of income, such as interest and dividends, should be subject to a withholding tax at the source as payment on account of the tax debt at the end of the year.

In addition, with certain exceptions, the leases of certain real property are subject to a withholding income tax paid to lessors.

On the other hand, Spanish companies have the obligation to make three payments on account of the definitive tax (in April, October and December of each year).

Personal Income tax

It is regulated by Law 35/2006, of 28 November. For its part, the taxation of individuals (and legal non-residents is regulated through a separate law (the Consolidated Text of the Law of the Tax on the income of non-resident).

a) Tax payers

Is considered to be a contributor for the Personal Income Tax purposes when:

- is a person who has his habitual residence in Spanish territory.
- Is a physical person of Spanish nationality with habitual residence abroad but unless any circumstances provided for in the law (such as by diplomatic, consular services, etc.).

Also, it is considered that retains its rating of contributor that person of Spanish nationality to reside in a tax haven (this rule will be applied during the year in which the change of residence and the following four).

b) The taxable event

Taxable event is the perception of income by the taxpayer, give throughout their worldwide income.

c) Exempt Income

The law establishes a number of exempt income.

Among the exemptions which are collected, highlights the relative to labour earnings received by work developed abroad. This exemption shall apply to the remuneration accrued during the days of stay abroad up to an amount of 60,100 euros per year provided that certain requirements are met.

It should also be noted the exemption for capital gains arising in the transmission of the habitual residence of the taxpayer when the total amount will be reinvested in the acquisition of a new habitual residence, and the exemption of the compensation for dismissal or termination of the worker.

d) Taxable income

The income subject to taxation by the tax are the following:

- Income from work, taxed both yields cash yields in kind
- Real estate capital gains
- Return on capital assets
- Gains and losses

e) Reductions in the tax base in order to adapt the tax on personal and family circumstances of the taxpayer

The Law establishes a minimum (minimum of the taxpayer, at least by descendants, at least by ascendants and minimum disability) that constitute the part of the tax basis that allocated to basic needs and personal of the taxpayer, are not subject to taxation.

f) Determination of the Tax base

The Tax base will be the result of applying to the general tax base reductions by attention to situations of dependency and Aging, and by contributions to social pension systems, including those consisting in favour of persons with disabilities, contributions to heritage protected persons with disabilities, and the compensatory pension reductions. The implementation of the reductions referred to may not generate a negative general net tax base.

The tax basis of the savings will be the result of decreasing the savings base in the remnant (not applied to reduce the general tax base), as the case may be, the compensatory pension reduction without such an operation can be a negative savings tax basis.

g) Determination of the full quota: Tax Rates

The full quota is calculated by applying the tax rates to the net tax base.

In particular:

- is calculated what could be called the "general full payment", applying the progressive scale of assessment to the tax basis general and subtracting from it the resulting from applying the same scale to the personal and family minimum.
- is calculated what might be termed "savings full payment", by applying the scale of the savings to the tax basis of savings.

TAXABLE SCALE

Tax basis up to (Euro)	Full payment	Rest of tax basis (Euro)	Tax Rate (%)
0,00	0,00	12.450,00	19%
12.450,00	2.365,50	7.750,00	24%
20.200,00	4.225,50	15.000,00	30%
35.200,00	8.725,50	24.800,00	37%
60.000,00	17.901,50	hereafter	45%

As well, the tax basis of savings, which, in his case, does not correspond with the remainder of the personal and family minimum be taxed to a scaling of fixed rates. The result of this is that the general state and regional scale for the years 2016 and following is:

SCALE OF SAVINGS TAX BASIS

Saving Tax basis up to (Euro)	Tax Rate (%)
Up to 6.000	19%
From 6.000 to 50.000	21%
From 50.000 and up	23%

h) Liquid and differential quota. Deductions

The liquid state and autonomic liquid share of the tax are the result of subtracting the state and regional contributions (in their corresponding percentages) certain deductions:

- Deduction for investment in companies of new or recent creation
- Deduction for economic activities
- Deductions for donations
- Deduction for income obtained in Ceuta and Melilla
- Deduction for actions for the protection and dissemination of the Spanish Historical Heritage, and of the cities, and declared a World Heritage Site.

i) Withholding Taxes

Payment of proceeds derived from capital gains, the gains of shares or holdings in collective investment institutions and the personal income from work, among others, are subject to withholding at the source (or, in the case of income in kind), which is considered a payment on account of the final fee.

Tax on the income of non-residents

Is regulated by the Consolidated Text of the Law of the Tax on the income of non-residents, approved by Royal Legislative Decree 5/2004, of 5 March (hereinafter, TRLIRNR), and the Regulation of the Tax on the income of non-residents, approved by Royal Decree 1776/2004, of 30 July.

a) Income obtained through permanent establishment

Taxpayers who obtain income through permanent establishment located in Spanish territory will be taxed by the whole of the income attributable to the same, irrespective of the place of collection.

A key feature of the permanent establishments is the absence of legal personality distinct from that of the corresponding to the array.

In general terms, the permanent establishments in Spain of persons or entities not resident are taxed on the basis of their net income at the same rate as the Spanish companies (with 28% general in 2015 and 25% from the financial year 2016).

The Taxpayers of this tax operating in Spanish territory through permanent establishment are generally required to keep separate accounts, in accordance with the rules laid down for the Spanish companies.

b) Income obtained without the mediation of permanent establishment

The taxpayers of this tax to obtain income in Spain without the mediation of permanent establishment will be subject to tax only on the income of Spanish source in accordance with the following rates:

TAX RATES TO BE APPLIED

Income	Tax Rate (%)
General:	24%
Dividends	
Interests	19%
Revenue deriving from the transfer or redemption of securities representing capital or the heritage of collective investment institutions	
Special cases:	
Yields of reinsurance operations	1,50%
Performance of maritime navigation or air	4%
Gains	19%
Seasonal foreign workers	2%

c) Tax regime for employees of multinational groups displaced to Spain

Special tax regime applicable to persons who acquire the consideration of tax residents in Spain as a result of the displacement to Spanish territory by virtue of a contract of employment or the acquisition of the status of administrator of an entity in whose capital does not participate or participates in less than 25% of the capital stock of the same.

The particularity of this regime is that, despite the fact that the person who applies it to be considered tax resident in Spain, the labour income obtained are taxed according to the rules applicable to non-residents, therefore, give to a maximum rate of 24% up to a maximum net tax base of 600,000 euros; the rest of the tax base is taxed at a rate of 45%.

In addition, the regime has other advantages, such as the non-compliance with certain obligations of information (model 720) or the presentation of ISD and IP in the modalities of non-residents, that is, taking into account only the assets located in Spain.

The scheme is applied in the displacement exercise and in the subsequent five.

It is necessary to qualify for the implementation of the regime, which had not been considered tax resident in Spain in the 10 years prior to displacement. The regime is expressly vetoed to professional athletes.

Wealth Tax

Individual resident in Spain should be taxed by the Estate Tax for all goods (World Heritage Site) of the holding to 31 December of each year, valued in accordance with the tax rules. Non-residents are taxed only for the property or the rights exercisable in Spain. However, some agreements may affect the application of this standard.

The scale of assessment established for this tax, which will be implemented in the absence of a rate approved by part of the Autonomous Community in question, is the following:

Tax basis up to (Euro)	Full payment (Euro)	Rest of tax basis (Euro)	Tax Rate (%)
0,00	0,00	167.129,45	0,2
167.129,45	334,26	167.123,43	0,3
334.252,88	835,63	334.246,87	0,5
668.499,75	2.506,86	668.499,76	0,9
1.336.999,51	8.523,36	1.336.999,50	1,3
2.673.999,01	25.904,35	2.673.999,02	1,7
5.347.998,03	71.362,33	5.347.998,03	2,1
10.695.996,06	183.670,29	hereafter	2,5

In the absence of regulation, the minimum exempt, and the minimum time from which it is required to file a tax return is 700,000 euros.

Regardless of the minimum exempt and that some Autonomous Communities they refund the fee on a 100€, the obligation to declare when the value of the property or rights is greater than 2,000,000 euros.

Tax on Inheritance and Donations

This tax falls on the heirs, beneficiaries and donors resident in Spain for all goods that they receive, whether they are located in Spain or abroad. In the case of non-resident beneficiaries, they will be subject to this tax liability should be taxed in Spain by the acquisition of goods and rights, whatever their nature, they were located, could exercise or should be met in Spanish territory.

The tax is calculated by adjusting a progressive scale of types (according to the amount of the inheritance or donation) by means of a coefficient which takes into account the pre-existing equity and its degree of relationship to the transferor.

The rates of duty and the weightings applicable (in the absence of types and coefficients own approved by the corresponding Autonomous Community) are the following:

Tax basis up to (Euro)	Full payment (Euro)	Rest of tax basis (Euro)	Tax Rate (%)
0,00		7.993,46	7,65
7.993,46	611,50	7.987,45	8,50
15.980,91	1.290,43	7.987,45	9,35
23.968,36	2.037,26	7.987,45	10,20
31.955,81	2.851,98	7.987,45	11,05
39.943,26	3.734,59	7.987,46	11,90
47.930,72	4.685,10	7.987,45	12,75
55.918,17	5.703,50	7.987,45	13,60
63.905,62	6.789,79	7.987,45	14,45
71.893,07	7.943,98	7.987,45	15,30
79.880,52	9.166,06	39.877,15	16,15
119.757,67	15.606,22	39.877,16	18,70
159.634,83	23.063,25	79.754,30	21,25
239.389,13	40.011,04	159.388,41	25,50
398.777,54	80.655,08	398.777,54	29,75
797.555,08	199.291,40	hereafter	34,00

Some of the Autonomous Communities, however, have set bonuses that lead to no fee to pay (or that it is aimed at "0"). This reaches to the sequences and/or donations, depending on the autonomy, in the case of heirs or grantees are "near" (children, grandchildren, spouses, ascendants).

Value Added Tax

It is regulated by the Law 37/1992, in force since 1 January 1993, which incorporates the right Spanish directives governing the VAT, whose main rules are harmonized in the different Member States of the European Union.

Vat is a tax of indirect nature, which is levied on the supply of goods or services made by entrepreneurs and professionals in the exercise of its activity. It is a tax neutral for those entrepreneurs and professionals being who really supports their cost to the final consumer.

Within the Spanish territory, VAT is not applicable in the Canary Islands, Ceuta and Melilla.

The rates are as follows:

- The standard rate is 21%, applicable to most of the deliveries of goods and services.
- There is a reduced rate of 10% applicable, among others, to deliveries, intra-Community acquisitions and imports of products destined for human or animal consumption, except for alcoholic beverages, water, housing and certain pharmaceutical specialties.

This reduced rate is also applicable to, among others, services as carriage of passengers and their luggage and entrance to libraries.

- There is super reduced rate of 4% applicable to:
 - Bread, flour, milk, cheese, eggs, fruit and vegetables.
 - Books, Newspapers and magazines that do not contain primarily advertising.
 - Medicinal products for human use.
 - Hire of disabled people.
 - Prostheses for people with disabilities.
 - Certain public housing.

The regulations of the Tax sets, in turn, a series of special rules for the determination of the tax base, among others, the assumptions of self-consumption of goods or services, as well as those cases in which there is no link between the parties (the tax base is made up of the fair market value).

Transfer Tax and Stamp Duty

Tax on Patrimonial Transfers and Documented Legal Acts (ITP and AJD) imposes a limited number of transactions, among which:

Tax Rate	(%)
Corporate operations	1
Real estate transmissions	6
Transmissions of movable property and administrative concessions	4
Certain rights (mainly warranty, pension, bonds or loans)	1
Certain public deeds	0,5

The Autonomous Communities are entitled to apply different types in certain cases. In fact, many of them have been established as rate applicable to transfers of real estate and the 10% and Documented Legal Acts the 1.5% in certain operations.

At present do not pay corporate restructuring operations, the constitutions of societies, the capital increase, the contributions of the partners in general and certain movements of headquarters of effective address or registered office.

Obligations of information on goods and rights abroad

The regulation addresses an obligation of information assets and rights abroad, which affects physical and legal persons (including entities of attribution of income) resident in Spain and to non-residents with a permanent establishment.

This obligation extends to accounts, values (including insurance and annuities and temporary) and immovable property or rights over the same, with certain exceptions, quantitative and qualitative.

Although it is a purely formal obligation to perform each year in relation to the information corresponding to the previous year (being the first statement to submit the corresponding to the exercises that finalized from 29 October 2012), the lack of fulfilment of this obligation or its improper performance or is subjected to a burdensome system of sanctions.

In addition, in the event of a breach of this obligation, the income shall be deemed to be discovered undeclared income or gain of heritage is not justified, attributable to the last period of the non-prescribed, although it can be proven that the income is generated before, unless it is proven that were declared.

The general term for statement covers from 1 January to 31 March of the year following the year for which the declaration is presented.

Property Tax

This tax is payable annually by taxing the possession of real property or real rights thereto on the basis of the cadastral value determined in accordance with the rules governing the Cadastral Office, to different types up to a maximum of 1.30% for the urban and 1.22% for the rustic property.

Tax on economics activities

This tax is payable annually by the business activities carried out within the municipality.

Notwithstanding the above, are as follow:

- taxable persons.
- taxable persons who engage in the exercise of its activity in Spanish territory, during the first two tax periods in the development of the same.
- The passive subjects of the tax on corporations and entities without legal personality that have a net amount of less than 1 million euros in the previous year (calculated at the group level, in accordance with article 42 of the Code of Commerce).

As soon as taxpayers by the IRNR, the exemption will only reach those who operate in Spain through a permanent establishment, provided that they have a net amount of less than 1 million euros in the previous year.

The fee to pay is calculated on the basis of different factors (type of activity, area used, the net amount of turnover, etc.). The minimum rates are published by the Government and can be adapted by each municipality.

Tax on building, installations and other works

This tax is levied on the real cost of any work or construction activity that requires a municipal permit prior, excluding VAT and other similar taxes.

The rate of the tax shall be fixed by each Municipality, without that type cannot exceed 4%, accrue at the start of the work or construction, regardless of whether it was obtained the license.

Tax on the Increase of the value of the Land of Urban Nature

This tax is levied on the increase in the value of urban Land revealed at the time of the transmission.

- *Passive Subject:* in the transmissions onerous the transferor and the lucrative nature of the acquirer.

Type of assessment: the fixed by each Municipality, without that type cannot exceed 30%.

• *Tax Base*: formed by the increase in the value of the land. For the purposes of the determination of the taxable amount shall be taken into account, the value of the land at the time of maturity, which in the transmissions of land will be determined at that time to effects of the tax on Real Estate. This value will apply to annual percentages depending on the holding period, to be determined by each municipality, and which may not exceed the following limits:

- Period of one to five years: 3.7
- Period of up to 10 years: 3.5
- Period of up to 15 years: 3.2
- Period of up to 20 years: 3

This tax will be deducted from the value of transmission of real property for the purpose of Income Tax.

4. LABOUR AND SOCIAL SECURITY LEGISLATION

Introduction

The labour relations of workers are regulated, in general, by the provisions of the Royal Legislative Decree 2/2015, of 23 October, which approved the Statute of Workers (ET).

A relevant characteristic of the Spanish legal system is the possibility of regulating collective bargaining also important issues relating to the labour relations of workers: this is carried out through collective agreements, that is, agreements between the representation of the workers and the business for the regulation of the terms and conditions of employment in the field chosen (below business, enterprise or sectoral).

In recent years, the Spanish labour legislation has been adapted and modernized through legislative amendments that have been eased in order to boost the labour market in order to promote the employability and investment.

a) Work Centre

When you open a new work centre, it is necessary for its proper functioning that the entrepreneur to communicate to the General Directorate of Labour, the place where the service will be. This communication shall be made within 30 days following the start of the activity.

b) Types of Contracts

The contracts can be in writing or orally, except in those cases in which expressly established that it is mandatory the written form of the contract (for example, in the case of temporary contracts, part-time contracts or training contracts). Not to be observed this formal requirement, the contract is concluded for an indefinite period of time and full-time, unless proven otherwise.

Companies must deliver to the legal representation of the workers (the same) a basic copy of all contracts to be concluded in writing (with the exception of the senior management). In addition, the contracting officer should communicate to the public employment services within 10 days from its conclusion.

There are different types of contracts, which include the following: Indefinite, temporary or fixed-term contracts, training, at distance or part-time.

The main types of contract are the following:

◦ Long term contract

Its main feature is that in this type of contract is not set a specific time of completion. The contract that other contracts, such as temporary, the training or practices that have a maximum time of duration in time, contract continues until the company or the worker break it.

This contract should be the usual contract and more widespread, as the other types of contracts should be only for specific circumstances. Unlike other contracts there are no specific requirements for the company or for the worker or for the post to be filled and the benefits to perform.

The fixed contract is broken only in the event that the company so decides or the worker.

For the worker, the advantage of being adrift in the indefinite right to compensation in the event of dismissal. Unlike the temporary contracts, the worker jobs can receive only two types of compensation:

- Compensation of 20 days per year in the case of a dismissal.
- Compensation of 45 days per year until 12 February 2012 and 33 days per year from that date, in the event of been declared the dismissal. Although it is clear that once claimed by the worker, you can reach agreements by other amounts.

In the event that the worker decides to terminate the contract, we would be talking about a voluntary, which implies losing their right to compensation and limitations in access to unemployment benefits.

◦ *Fixed-term contract*

In Spanish law causes exist legally assessed for the subscription of fixed-term contracts or temporary.

All contracts must be in writing and shall specify the reason for the temporary nature of recruitment. Otherwise, or when the contractual modality is not really a cause legally established, the contract shall be presumed, in the absence of proof attesting to the temporary nature.

If the contract of employment for a specified period exceeds one year, the part of the contract to make the complaint is obliged to notify the other of the termination of the same with a minimum of 15 days or, as the case may be, with the notice regulated in the collective application.

◦ *Part-time contract*

The contract of employment shall be deemed to be held at the time when it has agreed to the provision of services for a number of hours per day, per week, per month or per year less than the workday of a comparable full-time worker, that is, a full-time worker in the same company and work centre and that perform the same or similar work.

Part-time workers have the same rights as full-time workers, although, as appropriate to their nature, such rights will be recognized in a proportional way, as a function of time worked.

◦ *Distance work (teleworking)*

It is possible to agree on the implementation of the Distance work, always and when it needs to be formalized in writing (both in the initial contract as in a subsequent agreement).

Have consideration of distance work in which the provision of labour activity is carried out predominantly in the home or at the place of your choice.

◦ Contract of employment for an indefinite period of support to entrepreneurs

Is a contractual modality that is concluded for an indefinite period of time and full-time or part, applicable to companies with fewer than 50 workers. Recourse may be made to this contractual modality until the rate of unemployment in Spain is below 15%.

The trial period is 1 year and the companies that in the 6 months prior had been extinctions for objective reasons declared inadmissible or had been a collective dismissal will not be able to use this modality. This contract will allow to take advantage of tax incentives and subsidies to social security contributions for certain groups of workers, always and when the company keep the worker in employment, at least 3 years and maintain the level of employment in the company reached with the contract for an indefinite period of support to entrepreneurs for at least 1 year since the conclusion of the contract.

c) Cancellation of a contract

Labour contracts can be extinguished by different causes, which can be divided into two groups: the extinction for dismissal and extinction due to causes other than dismissal.

Extinction due to causes other than dismissal:

- Mutual agreement of the parties: both parties, on a voluntary basis, they decide to put an end to the employment relationship.
- Reasons set forth in the contract: you can extinguish valid for any of the reasons provided in the contract, except that it can be considered that constitute abuse of rights by the employer.
- Resignation of the worker: it is the worker who decides to end the contract, with the notice that indicates the collective agreements.
- By the will of the worker: based on a breach of contract by the employer. The worker will be entitled to compensation for unfair dismissal.
- Expiry of the agreed time: on completion of the contract the worker will be entitled to receive compensation in the amount equivalent to the proportional part of the amount that would be payable 12 days wages for each year of service.

Cancellation of a contract by dismissal:

- Collective dismissal: It is caused by economic or organizational reasons.
- Dismissal objective: it is caused by incompetence, lack of support, lack of adaptation, or technical or organizational reasons.
- Disciplinary dismissal: when there is a serious and wrongful death of the worker.

When there is a dismissal, this can be appropriate or inappropriate. In the event that the worker has the right to receive compensation of 20 days per year worked, with a maximum of 12 months. In the case it is declared inadmissible, the compensation will be, from 2012, of 33 days per year worked with a maximum of 24 months (previously 45 days per year with a maximum of 42 monthly instalments).

d) Recruitment Senior managers

There are special labour standards applicable to certain types of workers, notably the special labour relationship of the senior managers, regulated by Royal Decree 1382/1985, of 1 August.

The conditions of such executives are subject to fewer constraints than those of ordinary workers and, as a general rule, the parties (employer and senior manager) have a wide margin of maneuverer to define their contractual relationship.

In relation to the current extinction of the contracts of senior management, establishes a series of forecasts.

The contracts of senior managers can be extinguished without cause with a minimum of 3 months' notice, by having the right to compensation in the amount of seven days of cash salary per year of service, subject to a maximum of 6 months, unless there is agreement on the compensation.

Alternatively, a senior can be fired for any of the reasons set forth in the general labor legislation. If the dismissal was declared inadmissible, the high office has the right to 20 days' wages in cash per year of service, up to a maximum of twelve monthly, unless agreed compensation.

The top manager can freely withdraw from the contract, must comply with a minimum of three months' notice.

Although the legally established compensation for senior management is currently lower than in the ordinary workers, the contracts of the staff of senior management in practice often pick up forecasts for compensation higher than the legal minimum.

Contracting with companies of Temporary Work

In accordance with Spanish legislation, the hiring of workers to cede them temporarily to another company (user) can only be done through temporary work companies (ETT), duly authorized and in the same assumptions can sign temporary contracts or fixed-term contracts, including contracts of practices or to the training and learning.

Thus, only in cases assessed, you can turn to the recruitment of workers through Temporary work companies, being expressly prohibited in the following cases:

- To replace striking workers in the user enterprise.
- For the implementation of the activities and work certain regulations on the grounds of their particular danger to safety or health.
- To assign workers to other TTE.

The Temporary Work companies in addition to relinquish temporary workers to other companies, may act as placement agencies if they meet the requirements legally established for this purpose.

Workers representative and collective bargaining

Workers are represented by unions. In the field of companies, this representation is carried out by the unitary representation (the staff delegates or committees for the company, which may or may not belong to a trade union) and by the trade union representation (trade union sections and trade union delegates representing a union in the company).

It is not mandatory that companies with representation of the workers, if workers do not have promoted trade union elections. However, if the employees promote this representation, the Company is obliged to allow trade union elections and to those representatives in the terms provided by law.

In general, the unitary representation and the association have the function to receive certain information assessed in the ET with the aim of ensuring compliance with labor law. Have the right to participate in the negotiation prior to the implementation of collective agreements, as well as procedures have the right to the issue of reports prior to total or partial transfer of facilities, mergers, or any modification of the legal status of the company, among others.

In addition, the trade unions (in the field above) or the unitary representation or trade union may negotiate collective agreements with the employers' association (in the first case) or with the company (in the second).

Collective agreements are agreements between the representation of the workers and the business for the regulation of employment and working conditions, remain binding between the parties.

Social Security

a) Social Security General Regime

Necessarily have to be included in the General Scheme of the Social Security (RGSS tour) employed and assimilated, except that by their activity should be included in the field of application of the special scheme of the Social Security, in accordance with the provisions of the General Social Security Act (Lgss).

b) Registration of the company before the Social Security

The company has to register in the Treasury General of the Social Security (TGSS) to start your activity, and request the inclusion in the corresponding scheme. Registration is only valid for the entire national territory, and identifies the business circumstances in order to the inclusion of workers who provide services in the corresponding Social Security regime, with the rights and obligations of the same set.

c) Affiliation of workers'

Membership is that individuals are integrated into the system of the TGSS. Can be carried out at the request of the workers themselves, the employer, or ex officio by the TGSS. The employer has the obligation to affiliate to those workers who were not affiliated with prior to the TGSS.

d) Incorporation of Workers

The employer shall discharge by the TGSS to the workers who are going to provide services to you, prior to the start of the work activity but never before the 60 calendar days prior to the scheduled for the beginning of the worker.

e) Social Security contribution

Shall be subject to the obligation to contribute to the RGSS for workers and assimilated within its field of application and employers on whose account work. The price includes two contributions: employers and workers. However, for the contingencies of work-related injuries and occupational diseases (WRI and OD) the complete quote shall be borne exclusively by employers.

f) Legal representation of workers

Have been recognized the right of representation. In companies that have less than 10 and 50 workers, the representation corresponds to the staff delegates. You can also have a staff delegate for those companies that maintain between 6 and 10 workers, if they so choose these by majority. In companies with 50 or more workers, the representative body is the Committee of the company.

◦ Visas and work permits and residence.

The nationals of Member States of the European Union and their family members can live and work in Spain, without the need to obtain work authorization even if you should obtain, in general, the corresponding certificate of registration of citizens of the Union or the community family card.

Foreigners not qualifying for the European Community regime will need authorisation to live and work in Spain.

The types of visas and residence and work authorizations are the following:

- *Visa and Residence Permit for investors:* foreigners residing legally in Spain may apply for the corresponding visa always and when they perform a significant capital investment in Spain.
- *Visa and Residence Permit for entrepreneurs:* A case of a visa of entry and residence, as well as a residence permit, for all those entrepreneurs in Spain an innovative activity with special economic interest for the country, should have a favourable report from the General Administration of the State.
- *Visa and Residence Permit for highly qualified professionals:* may request this authorization companies that require the incorporation in Spanish territory of foreign professionals for the development of a labour relationship or a significant increase in the creation of direct jobs on the part of the company requesting the recruitment.

- *Visa and Residence Permit for training, research, development and innovation.* Those foreigners who intend to enter Spain and undertake activities of training, research, development and innovation in public or private entities may apply for the corresponding entry visa or residence permit.

- *Visa and authorization of residence for intra-corporate transfers.* You may request the corresponding visa and residence permit for those cases of foreigners displaced to Spain in the framework of an employment relationship, professional or vocational training, with a company or group of companies established in Spain or in another country.

Dispute Resolution

a) Judicial proceedings

Spain is organized territorially, for judicial purposes, in municipalities, provinces and Autonomous Communities, in which the Justices of the Peace, the Courts of First Instance and Instruction, the Commercial Law Courts, Criminal Courts, the Courts of the Dispute Tribunal, the Social Courts, the Provincial Hearings and the Higher Courts of Justice have jurisdiction. The Supreme Court and the High Court have jurisdiction over the entire national territory.

Although the procedural system must be considered as a system of continental law, some elements of the Law of Civil Procedure are close to the Anglo-Saxon system. It is the case of the prevalence of oral proceedings. The Law of Civil Procedure reduces the formalities and promotes more expeditious procedures as well as a more rapid and efficient response of the judges and courts.

Spain has ratified numerous bilateral and multilateral treaties on the recognition and enforcement of foreign judgments.

Arbitration

Arbitration is a real alternative to the solution of trade disputes. The corporates are increasingly willing to resort to arbitration. In addition, the Spanish jurisprudence is increasingly in favour to arbitration, both with regard to the arbitration agreement as to the enforcement of arbitral awards.

The Law 60/2003, of 23 December, (the Arbitration Act) allows both individuals and businesses to sign agreements to submit to one or more arbitrators of disputes which have arisen or which may arise in the areas of free disposal in accordance with the law.

The Arbitration Act empowers the arbitrators to grant precautionary measures. This does not prevent the power that judges in accordance with the Law of Civil Procedure of interim measures pending an arbitration procedure. In this way, the jurisdiction of the judges and arbitrators to issue interim measures is concurrent, allowing the parties to direct its request for precautionary measures either to the competent judge or to the arbitral tribunal.

In accordance with the Arbitration Law, the implementation of the arbitral award rendered in Spain is possible even when you have exercised the action for cancellation of the same. In this case, a court will only be able to suspend enforcement of the arbitral award when the executed to provide security for the value of the condemnation contained in the award more damages that might result from the delay in the implementation of the same.

The grounds for refusal of recognition or enforcement of arbitral awards contained in the Arbitration Law are based on those contained in the UNCITRAL Model Law, which in turn is based almost entirely on the New York Convention of 1958. Spain has ratified this Convention and the European Convention on International Commercial Arbitration, signed at Geneva on 21 April 1961.

The accession of Spain to an arbitral regime inspired by the UNCITRAL Model Law makes the international arbitration in Spain more accessible to lawyers from different jurisdictions and their customers. The Arbitration Law helps to make Spain an ideal venue for international arbitrations, especially when they involve Latin American interests, thanks to its proper geographical situation in the south of Europe, its competitive costs in comparison with other European sites and their language and cultural ties with Latin America.