

Spain: The limitation on the offsetting of tax losses and the use of double taxation credits for large companies is again reduced and other tax modifications are introduced

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Among others, a tax is created on the margin of interest and commissions of certain financial institutions, the savings tax rate is increased in the Personal Income Tax for taxable income over EUR 300,000 and an exemption is introduced for Personal income tax and Inheritance and Gift tax purposes in relation to donations made by employers to their employees to alleviate the damage caused by the DANA. In addition, the cases in which the reserve for investments in the Canary Islands can be used are extended.

On 21 December 2024, [Law 7/2024 of 20 December 2024 \(Law 7/2024\)](#) was published in the Official State Gazette (BOE), which enters into force, in general terms, the day after its publication. In addition to regulating the Complementary Tax that guarantees an overall minimum level of taxation for multinational groups and large domestic groups (transposing Council Directive 2022/2523 of 15 December 2022), this law introduces other new developments of interest in the tax field

In this publication we summarize these other new developments. Two other publications summarize developments relating to the Complementary Tax ([here](#)) and the Canary Islands Economic and Fiscal Regime ([here](#)).

1. Creation and repeal of taxes

1.1. Tax on net interest income and commissions of certain financial institutions is introduced.

With effect for the three tax periods beginning on or after 1 January 2024, the Tax on the net interest and commission income of certain financial institutions is created, a direct tax whose taxable event is the obtaining in Spanish territory of a positive net interest and commission income by financial credit institutions and establishments and by branches in Spain of foreign credit institutions.

The tax period coincides with the financial year and the accrual is established on the day following the end of the tax period. The tax will be paid in September of each year, although an instalment payment of 40% of the amount must be made in February (exceptionally, the first instalment payment will be made in June 2025).

The taxable base corresponds to the positive balance resulting from integrating and offsetting the net interest income and commission income and expenses arising from the activity carried out in Spain that appear in the profit and loss account, in accordance with accounting regulations. However, a reduction of EUR 100 million will be applied to the tax base to calculate the taxable income.

A progressive scale of tax rates is established, including five brackets: 1%, 3.5%, 4.8%, 6% and 7% (maximum rate applicable to the part of the net tax base exceeding EUR 5 billion).

To obtain the net tax payable, the gross tax payable is reduced by 25% of the net corporate income tax payable for the same tax period. When the taxpayer forms part of a tax group, a proportional rule will be applied. Under no circumstances may the net tax liability be negative.

In addition, if the return on assets (ROA) is less than 0.7%, an extraordinary deduction will apply.

This tax is not deductible for corporate income tax purposes.

1.2. Tax on liquids for electronic cigarettes and other tobacco-related products is introduced

With effect from 1 January 2025, a tax is introduced on the manufacture, import and introduction into the domestic territory from the territory of other European Union (EU) Member States of liquids for electronic cigarettes, nicotine pouches and other nicotine products other than those falling within the objective scope of the Tobacco Products Tax, when they are not considered as medicinal products

The tax is calculated as follows, depending on the product concerned:

Product	Tax base	Tax rate
Cigarette liquids	Volume in millilitres (ml)	0.15 EUR/ml (if nicotine ≤ 15 ml)
		0,20 EUR/ml (if nicotine > 15 ml)
Nicotine bags	Weight in grams	0.10 EUR/gram
Other nicotine products	Weight in grams	0.10 EUR/gram

Exemptions are provided for in relation to products subject to the tax that leave its territorial scope for EU territory, that are destined (i) for scientific analysis or related to the quality of the products or (ii) to be delivered by duty-free shops, among other cases. It also provides for the possibility of requesting a tax refund when the products (i) are destroyed under the control of the tax administration, (ii) are returned to the factory for recycling or (iii) are dispatched from the domestic territory to the territory of other Member States. In addition, a regularization procedure is regulated for products stored at the entry into force of the tax.

Finally, also with effect from 1 January 2025, the tax rates of the Tobacco Products Tax are modified.

1.3. The Temporary Energy Levy is repealed

The temporary energy tax regulated in Article 1 of Law 38/2022 of 27 December is repealed.

2. News on corporate taxation

2.1. Measures are introduced to reverse the effects of the partial annulment of the tax measures introduced by Royal Decree-Law 3/2016 of 2 December.

In its [judgment of 11 January 2024](#), the Constitutional Court annulled some of the measures introduced by Royal Decree-Law 3/2016 of 2 December. According to the court, these measures affected the essence of the duty to contribute to the support of public expenditure, so that their approval by means of a royal decree-law violated article 86.1 of the Constitution. Now, with effect for tax periods beginning on or after 1 January 2024 that have not ended by the entry into force of Law 7/2024, these measures are reintroduced as follows:

- a) The more restrictive limits for the offsetting of tax losses by large companies, based on their net turnover, are re-established. Specifically, (i) taxpayers with a net turnover of less than or equal to EUR 20 million will maintain the general offset limit of 70% of the positive tax base prior to offset; while (ii) taxpayers with a net turnover of more than EUR 20 million and more than EUR 60 million may offset tax losses up to 50% or 25% (respectively) of the previous positive tax base. The possibility of offsetting an amount of up to EUR 1 million is maintained in any case.
- b) The specific limitation on the application of deductions for double taxation, both domestic and international, is reintroduced, affecting taxpayers with a net turnover equal to or greater than EUR 20 million. Specifically, the maximum deduction in these cases will be 50% of the taxpayer's gross tax liability, this limitation affecting both deductions generated in the tax period itself and those pending from previous years. Deductions not applied due to insufficient tax liability may be deducted, as hitherto, in subsequent tax periods.
- c) The regime of mandatory reversal of impairment losses on securities representing capital or equity that had been tax deductible prior to 2013 is re-established. This measure affects all taxpayers, irrespective of their net turnover.

Specifically, the total amount of impairment losses that were deductible before 2013 and are pending reversal at 1 January 2024 must be included in the tax base. The reversal must be made, in equal parts, in each of the first three financial years beginning on or after 1 January 2024. In the event of transfer of the securities, the amounts pending reversal will be included in the tax base of the tax period in which the transfer takes place.

The positive income derived from this mandatory reversal will be allowed to be offset against tax losses generated in years prior to 2021, without the 25% and 50% limits mentioned above applying (although with the general limit of 70%).

2.2. Limit on offsetting of individual BINs in tax groups extended to 2024 and 2025

For years beginning in 2023, a limitation (50%) was introduced on the use of individual tax losses generated in the year itself in the determination of the taxable income of tax groups, which is now extended to years beginning in 2024 and 2025. Foundations that are subject to the general corporate income tax regime and form part of a tax group are expressly excluded from this limitation.

The adjustments arising from this limitation must be reversed in equal parts in each of the ten fiscal years following the year in which they are applied. In the event of loss of the tax consolidation regime or termination of the group, the eliminations pending incorporation will be included in the individual tax base of the entities that formed part of the group.

2.3. The rules governing the capitalization reserve are amended.

With effect for tax periods beginning on or after 1 January 2025, significant improvements are made to the capitalization reserve regime:

- a) On the one hand, the general reduction percentage is increased to 20% of the increase in own funds (previously increased to 15% by Royal Decree-Law 4/2024, of 26 June, for financial years commencing on or after 1 January 2024). This percentage will be increased to 30% when certain requirements linked to the increase in the average headcount for the year are met. Thus, (i) if the increase is at least between 2% and 5%, the reduction will be 23%; (ii) if it is between 5% and 10%, 26.5%; and (iii) if it is more than 10%, 30%. The increase in the number of employees must be maintained for a period of three years from the end of the tax period to which the reduction applies.
- b) The maximum reduction limits on the previous positive tax base are also increased. In general, the limit increases from 10% to 20% of the previous taxable base for the period, before the compensation of tax losses; and, for micro-enterprises, a specific limit of 25% is established.

Otherwise, the remaining requirements for the application of the reduction are maintained, i.e. (i) the increase in own funds that gives rise to the reduction must be maintained for three years (except for the existence of accounting losses in the entity), and (ii) a restricted reserve must be set aside during this period for the amount of the reduction.

2.4. New measures for micro-enterprises and small-sized entities are established.

a) Tax rates for micro-enterprises and small-sized entities reduced

With effect for tax periods beginning on or after 1 January 2025, a progressive reduction in the tax rates applicable to smaller companies is established, differentiating between two categories of taxpayers:

- On the one hand, for so-called "micro-enterprises" (entities with a net turnover of less than EUR 1 million), a staggered reduction of the tax rate from the current 23% to a final rate of between 17% and 20% is foreseen. This reduction will take place in three phases:

Part of the tax base	Type 2025	Type 2026	Type 2027 onwards
From EUR 0 to 50,000	21%	19%	17%
Excess over EUR 50,000	22%	21%	20%

- On the other hand, the tax rate for small-sized entities (i.e. entities that can apply the special regime provided for in Article 101 of the CIT Law), is gradually reduced. In this case, it will start from the current 25%, which will be reduced as follows:

Type 2025	Type 2026	Type 2027	Type 2028	Type 2029 onwards
24%	23%	22%	21%	20%

- b) The minimum taxation rule is adapted to the previous tax rates.

The minimum taxation rule imposes a 15% tax on the taxable base, without considering tax reductions, deductions or incentives (with some exceptions). Its objective is to ensure minimum effective taxation for entities with a net turnover of EUR 20 million or more and for those taxed under the tax consolidation regime (irrespective of their turnover).

In order to adapt the minimum taxation rule to the new rates approved for micro-enterprises and small-sized entities, it is established that the minimum taxation percentage will not be the general 15% but will be calculated by applying fifteen twenty-fifths to the corresponding tax rate, rounding up.

3. Measures in the field of Personal Income Tax (IRPF)

- 3.1. With effect from 1 January 2025, **the last bracket of the savings tax scale is modified** from 28% to 30%. The sum of the national and regional scales is therefore as follows:

Net base of savings - Up to EUR	Full quota - EUR	Remaining base net of savings - Up to EUR	Applicable type - Percentage
0	0	6.000	19
6.000,00	1.140	44.000	21
50.000,00	10.380	150.000	23
200.000,00	44.880	100.000	27
300.000,00	71.880	From now on	30

This amendment also applies to taxpayers benefiting from the special scheme for workers posted to Spanish territory.

- 3.2. A **reduction is introduced for the determination of income from artistic activities obtained on an exceptional basis**. Specifically, the reduction will amount to 30% of the income from work or economic activities indicated below (which does not benefit from the reduction for income generated in more than two years or income that is notoriously irregular), when it exceeds 130% of the average income obtained in the last three financial years (and up to a maximum of EUR 150,000):

- Income from work deriving from (i) the production of literary, artistic or scientific works in which the right to exploit them is assigned; or from (ii) the special employment relationship of artists working in the performing, audiovisual and musical arts (and technical or ancillary activities necessary for their development).

- Net income from economic activities deriving from (i) activities included in groups 851, 852, 853, 861, 862, 864 and 869 of the second section and in groups 01, 02, 03 and 05 of the third section of the Economic Activities Tax Rates; or (ii) the provision of professional services which, due to their nature, if they were provided for hire or reward, would be included in the scope of the special employment relationship of artists working in the performing, audiovisual and musical arts (and technical or ancillary activities necessary for their development).

In order to calculate the net income from economic activities for the purposes of applying the reduction (including the calculation of the income obtained in the three previous tax periods), (i) deductible expenses that are common to other income from economic activities shall be prorated proportionally; and, (ii) in the event that, in any of the three previous tax periods, the net income is negative, it shall be computed as "zero".

This reduction shall be applied subsequently, where applicable, to the reductions provided for in Article 32.2 (general reduction of EUR 2,000) and 32.3 (reduction for starting a business activity in direct assessment) of the tax law.

- 3.3. A procedure is regulated **for the reimbursement of mutual funds**, in application of the conclusions of the Supreme Court in various rulings (among others, in its [ruling of 25 April 2023 -newsletter of May 2023-](#)).

In March 2024, the AEAT provided a form to obtain refunds for the years 2020 to 2023. It is now stated that, in order to obtain the refunds, the procedures established in the General Tax Law must be followed (rectification of self-assessments or refund procedures initiated by self-assessment), leaving without effect any ongoing self-assessment rectification or refund procedures initiated previously, whose refund has not been agreed (without prejudice to the interruptive effects of the statute of limitations that may have occurred).

4. VAT and invoicing developments

- 4.1. **Relevant measures** are incorporated **to tackle fraud affecting the market for diesel, petrol and biofuels** intended for use as fuel in motor vehicles.

Specifically, the "**last depositors**" of these products in a **tax warehouse** (or the holder, if he is the owner of the product) are required to **guarantee the payment of the VAT** corresponding to the supplies after leaving the warehouse, by means of a guarantee or payment on account. This obligation will not affect operators who can prove their status as authorized economic operators in accordance with customs regulations or reliable operators, a new figure, the procedure for obtaining which is pending future development by ministerial order. A transitional period of one month from the publication of the said order is envisaged for operators to obtain the latter recognition; otherwise, they will be obliged to present the corresponding guarantees.

Where a guarantee is required, the administration shall expressly authorize the departure, subject to verification of the sufficiency of the guarantee or payment.

In relation to the above, a **new joint and several liability** is regulated **for holders of tax warehouses** who allow fuels to leave the warehouse without accrediting express authorization for their departure or the requirements exempting them from the obligation to provide a guarantee.

Finally, it establishes the obligation to submit **monthly declarations-settlements** for the holders of tax warehouses for this type of products, as well as for businessmen or professionals who remove them from the tax warehouses.

- 4.2. The Government's intention to tax **short-term rental of dwellings** is anticipated, by means of the urgent transposition of the VAT Directive, once the modifications foreseen in the EU regulations have been approved.
- 4.3. **A reduced rate of 4%** is introduced **for fermented milk**.
- 4.4. Law 56/2007, of 28 December, on Measures to Promote the Information Society is amended to regulate certain aspects relating to **data protection by the public invoicing solution**. This makes it possible to continue with the development and approval of the regulation developing the obligatory nature and requirements of electronic invoicing between entrepreneurs introduced by the "Crea y Crece" Law.

5. New tax benefits in relation to the DANA

The amounts paid by employers to their employees and/or family members to cover personal injury and material damage to homes, belongings and vehicles will be exempt from **Personal Income Tax** and **Inheritance and Gift Tax**. For this purpose, the amounts paid must be additional to the previous salary and the employee must prove that he/she is affected and the amount of the damage suffered, by means of a certificate from the insurance company or, alternatively, if there is no insurance, from a public body.

The exemption shall be limited to amounts paid between 29 October 2024 and 31 December 2024, up to the limit of the certified damage. The part exceeding the certified damages shall be included in the personal income tax base.

More information:

[Tax](#)

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