

Spanish Corporate Income Tax (CIT)

Pursuant to Article 8 of *the Ley 27/2014, de 27 de noviembre, del Impuesto sobre Sociedades*, a company is considered resident in Spain, and therefore liable to CIT, when any of the following requirements are met:

- i. The company was incorporated according to Spanish law
- ii. The company's registered office is within the Spanish territory
- iii. The company's headquarters are within the Spanish territory, which will be deemed when the direction and control of all its activities are to be found within Spanish territory.

CIT GENERAL RATE: 25%

The CIT's rate in Spain is 25% with the exceptions of País Vasco and Navarra territories, where the rate is 24% and 28% respectively.

Spanish Corporate Tax Reforms In 2022

CIT RATE of 15% FOR COMPANIES WHOSE PROFITS ARE EQUAL TO OR OVER 20 MILLION EUROS

On 8th of October 2021, the Organisation for Economic Co-operation and Development (OCDE) announced an agreement, known as BEPS 2.0¹, between its 136 member countries, which include the USA, Spain, the Republic of Ireland and the United Kingdom, to establish a common CIT of 15% for companies whose net profits are equal to or over 20 million.

This was a historic agreement achieved by 136 jurisdictions, which represent more than 90% of worldwide GDP, seeking for such companies to avoid tax evasion.

According to OECD these companies evade up to 10% of the total amount of the corporate tax due using establishments of headquarters in territories of low taxation. Even though it was envisaged that the reform would be enforceable in 2023, it is likely

¹ <https://www.oecd.org/tax/beps/>

to be delayed until at least 2024. This situation is due to some governments who need to work out internal political issues before implementing the said tax reform.

In the case of Europe, Poland has blocked, at the moment, the approval of this tax reform within the European boundaries.

In this scenario, Spain has decided not to wait until the European Union achieves an agreement to implement the tax reform. Therefore, it has modified its domestic legislation approving CIT of 15% for companies whose net profits are equal to or over 20 million Euros.

This new legislation applies from 1st of January 2022.

CIT RATE OF 10% FOR COMPANIES OF NEW CREATION

Another tax reform approved by the Spanish Government consists of reducing the CIT from 15% to 10%, for Companies of New Creation in their first tax period where has had benefits and in the following one.

WHAT IS A COMPANY OF NEW CREATION?

The Spanish Company Act (*Ley de Sociedades de Capital*²) regulates in its Articles 434 to 454 what constitutes a Company of New Creation as follows:

- Only a maximum of 5 individuals can be shareholders of the company who in addition must not already be a shareholder of another company.
- The capital of the new company must be larger than € 3,000 but not more than €120,000;
- The share capital has to be paid by monetary contributions³;
- The name of the company must consist of the two surnames and the name of one of the founding members followed by an alphanumeric code enabling the identification of the company in a unique and unequivocal manner.

Written by Laura Gallego Herráez.

² <https://www.boe.es/buscar/act.php?id=BOE-A-2010-10544>

³ Read our article about non-monetary contributions [Non-Monetary Contributions Of Capital In Companies Incorporated In Spain | Scornik Gerstein LLP](#)