

5. CORPORATE INCOME TAX

Title I

5. Corporate Income Tax

- Law 27/2014 of 27 November which replaces RDL 4/2004, the consolidated text of Law 43/1995.
- Except for:
 - Cooperatives, Law 20/1990
 - Foundations and non-profit associations, Law 49/2002

5.1.A Nature and territorial scope (art. 1-3)

- It is a direct and personal tax levied on the income of legal entities.
- The taxable base is calculated by adjusting the accounting profit.

5.1.A Nature and territorial scope II

- It is defined by:
 - A personal obligation affecting taxpayers resident in Spanish territory (Peninsula, Balearic Islands, Canary Islands, Ceuta and Melilla), under which they are taxed on their total worldwide income.
 - A real obligation for non-residents who obtain income in that territory.
(There are treaties to avoid double taxation)

5.1.B Residence (art. 8)

- Entities are considered **residents** if they meet any of the following requirements:
 - Incorporation under Spanish law.
 - Registered office in Spanish territory.
 - Effective place of management in that territory

Effective place of management: direction and control of the activity.

Tax domicile: point of contact with the Tax Administration, at the effective place of management

5.1.C Taxable event (art. 4-6)

- Obtaining income, both from:
 - Business activities
 - Patrimonial entities (> 50% of the assets are securities or not used in an activity) *
- *For leasing to qualify as a business activity, at least one person must be employed full time.
- *Joint ownerships (comunidades de bienes) and undistributed estates are not subject to CIT. Civil partnerships (commercial, not professional or agricultural) are subject to CIT.

5.1.D Taxable persons

- Taxpayers (art. 7)

Taxable persons are **companies** and also certain legal entities without legal personality, including:

- Joint ventures (UTE)
- Certain funds.
- “Commercial” civil partnerships

- Exemptions (art. 9)

Subjective (total) exemptions:

- The State, the Autonomous Communities and local authorities.
- Bank of Spain.
- Other public-sector entities

Objective (partial) exemptions:

- Non-profit entities
- Trade unions, professional bodies, associations and chambers.
- Political parties.
- Mutual insurance companies

*The exemption is granted for the part of their activity that is of a social nature.

5.1.E Tax period and accrual (art. 27-28)

- The tax period coincides with the financial year, with a maximum of twelve months.
- The company bylaws set the financial year; failing that, the calendar year applies.
- A split financial year is allowed, affecting:
 - The entry into force of laws.
 - Instalment payments.
- It ends:
 - On the dissolution of the company.
 - On a change of residence abroad.
 - On transformation into a non-subject entity or a different regime.
- Short tax periods:
 - The year of incorporation.
 - On a change of financial year dates.
 - For the causes that bring it to an end.
 - Mergers and spin-offs.
- Accrual: the last day of the tax period. It determines:
 - The applicable legislation.
 - The tax domicile.
- Payment due: within 25 days after 6 months from the year-end close.
- Filed on form 200