

## 1. Government requirements

### Registration requirements

#### Tax registration

All companies that plan to engage in business or professional activities in Spain are obligated to be registered before the Spanish Tax Agency before they begin to supply their services. Companies should be enrolled in the Census of Businessmen Professionals and Withholders (036 tax form), and obtain the company tax ID number to be used in interactions of a tax nature or relevant to taxation.

Companies' tax ID Number (constituted by nine characters) must be characterized by the following composition:

- One letter (which will provide information on the legal statutory form of a Spanish organization or the nature of a foreign organization or permanent establishment of nonresident organizations)
- Seven-digit number
- Control character

The Tax ID number of individuals with Spanish nationality will be their Spanish national ID. For those that are not Spanish nationals, they should apply to obtain the foreign identification number (Número de Identificación de Extranjeros (NIE)).

#### Social security registration

As a general rule, all companies and their employees who perform their activities in Spain are required to be registered before, and pay contributions to, the Spanish Social Security system as soon as the employment relationship starts. Payment of social security contributions continues for the whole time that the employee is rendering his or her professional services. This obligation will stop when the employment ends.

Registration before the Social Security implies the previous registration with Spanish Tax Authorities as described above. Through this registration, the company will obtain the Contribution Account Code (CCC) which is necessary to register the employees before the Social Security Authorities.

Recently, authorities are requesting companies that want to be registered before the Spanish Social Security System as an employer to complete the process electronically through the Social Security e-Office. During this

process companies shall use the company's digital certificate, which must be issued by an authorized organization accepted by Social Security. The most common certificate is the digital certificate issued by the "National Coinage and Stamp Factory – Royal Mint (FNMT-RCM)".

#### Ongoing compliance requirements

##### **Tax obligations**

Companies whose volume of operations is over EUR6,010,121.04 in the previous financial year will be considered as a large company and taxes will be paid on a monthly basis within the first 20 days of the following month.

On the other hand, companies with less volume of operations than the indicated will pay taxes on a quarterly basis within the first 20 days of April, July, October and January of the following year for the withholding taxes for the previous quarter.

In case of late submission of the tax returns, penalties will be imposed depending on the delay of the submission or payment.

Companies should open a Spanish bank account from a list of banks which are allowed to cooperate with tax authorities to pay taxes and social security contributions in Spain. Taxes could be paid by direct debit (the authorities directly charge the withholding taxes to the company's bank account) or with the Número de Referencia Completo (NRC - Complete Reference Number) generated by the bank as a receipt to identify the tax payment.

### **Tax filling**

Companies acting as withholding tax agents are required to submit the 111 Tax Form (withholdings and payment on account for work and economic activities incomes) electronically and pay on a monthly or quarterly basis. In this tax form, companies must include all the incomes paid and withheld in the payroll for the Spanish tax resident employees. Supplier invoices relative to professional services provided to the company have to be included too.

Additionally, companies are required to submit electronically and pay the 216 Tax Form "Non-resident Income Tax" to inform the authorities about the incomes and withholding for nonresident employees in Spain.

Every year, companies are required to submit electronically the annual year-end Tax Forms 190 for Spanish tax resident employees and Tax Form 296 for nonresident employees. These tax forms are merely informative, in which the incomes and withheld amounts per employee are notified to the authorities. The deadline to submit both tax forms are on 31 January of the following year.

### **Tax rate**

For individuals who are considered as Spanish tax resident, Personal Income Tax (PIT) is a progressive tax based on the incomes received during the fiscal year and their tax personal situation. The rate to be applied would be the result from adding the general applicable rate established by the State and the applicable rate approved by the relevant autonomous community where the employee resides. The maximum rate is 47%. There are special rules for employee's resident in the Basque Country and Navarra.

As a general rule, for individuals who are considered as Spanish nonresident (special regime), the tax rate to be applied is 24% on incomes obtained in Spanish territory. For individuals without the special regimen, who are tax resident in other EU member states or European Economic Area (EEA), the tax rate is 19%. In case the total incomes reach the amount of EUR600,000.00, the tax rate will be 47%.

## **2. Pension requirements**

### **Registration requirements**

This is not applicable, only social security (see above) is required.

In Spain, there are various contribution schemes subject to the Spanish Social Security system (such as general, artist, agricultural workers, self-employed workers, domestic and personnel); the most important and common one is the “general” system. Spanish General Social Security System is the scheme through which authorities guarantee to individuals a suitable protection for the contingencies and situations established by Spanish regulations, for their professional activities.

All employees, before the date when they start rendering services in Spain, must apply for an affiliation number (NAF) before the Social Security Authorities.

Companies can voluntarily subscribe to a specific private pension plan scheme.

### **Ongoing compliance requirements**

#### **Social security contributions process**

Social Security contributions are paid on a monthly basis in the following month, and it is produced partly by the company and partly by the employee according to the employee’s professional and job category.

There are two methods to pay social security contributions. Contributions could be paid by direct debit where the payment is charged in the company’s bank account on the last working day of each month. Otherwise, companies could use electronic payment and pay the contributions with the contribution payment receipt before the last working day of each month using various payment methods (such as cashpoints, telephone banking or Internet banking).

For each professional category, there is a maximum and minimum social security contributions base, which is generally reviewed on a yearly basis. For the employees whose total income exceeds the maximum base, or does not reach the minimum base, they must pay contributions according to those maximum and minimum bases. In 2021, maximum base is EUR4,070.10 and minimum base is EUR1,050.10.

Social security contributions process is managed through an official tool provided by the authorities called SILTRA. Once this process is completed, the authorities provide the Contribution Payment Receipt, recibo de liquidación de cotizaciones (RLC) and the Worker Payroll List, relación nominal de trabajadores (RNT).

In case of late submission and nonpayment, penalties will be imposed depending of the delay of the payment.

### **Social security rates**

Rates applicable for the social security contributions are as follows (based on the rates applicable for an employee with a permanent contract):

	<b>Company</b>	<b>Employee</b>
Common contingences	23.60%	4.70%
Unemployment	5.50%	1.55%
Fondo de garantía salarial (FOGASA)	0.20%	—
Professional training	0.60%	0.10%
CNAE (Occupational accidents and diseases)		
<b>Total</b>	<b>29.90%</b>	<b>6.35%</b>

Código nacional de actividades económicas (CNAE) rate depends on the activity performed by the company.

### **Credited retribution items**

Companies should submit the Credited Retribution Items (CRA) file before the last day of the following month. CRA file is a breakdown of the remuneration paid to the employees regardless of their inclusion into the contributions base to Social Security.

### **Social security notifications**

There is a compulsory service of Social Security online notifications, Sede electrónica de la Seguridad Social (SEDESS) is a compulsory Social Security online notifications service. It enables management to receive notifications between the Social Security Organization and bodies, and companies and citizens.

### **Private pension plan scheme**

Companies with a private pension plan scheme should submit the annual 345 Tax Form before 31 January of the following year.

## **3. Employment obligations**

## **General employer obligations**

### **Collective bargaining agreement**

According to the Spanish regulation, a collective bargaining agreement (CBA) rules the employment conditions and other aspects of the relationship between the employees and the employers.

Employers should apply the most adequate CBA to their main activity.

Each CBA can apply more beneficial conditions to employees than the general rules established by the Spanish Workers' Statute Law.

### **Employment contracts**

According to the Spanish Workers' Statute Law, employment contracts may be formalized orally or in writing, provided that express exceptions should always be put in writing (for example, temporary contracts, part-time contracts and training contracts). For these exceptions, if the contract subscribed has not been put in writing, it will be considered as a permanent and full-time contract.

Employment contracts must be notified to the Spanish Public Employment Service (SEPE) within 10 days following the contract start date.

In case the company has a legal representative of the workforce, companies shall provide him or her with a basic copy of all the employment contracts that should be put in writing (excluding any senior management contracts).

According to the Spanish Workers Statute, the types of employment contracts are:

- a) Permanent employment contracts
- b) Fix-term employment contracts:
  - Temporary contracts for the performance of a specific work or service
  - Temporary contracts due to for production circumstances
  - Interim contract
  - Relief contract
  - Training contract

### **Minimum salary**

The minimum interprofessional wage for 2021 is as follows:

- Minimum diary wage: EUR31.66
- Minimum monthly wage: EUR950.00
- Minimum annual wage: EUR13,300.00 (14 payments peryear)

The applicable CBA can establish other higher minimum wage for the employees based on the professional category and professional group.

### **Annual leave**

Annual leave is a right foreseen in by the Workers' Statute. According to such law, the period of paid leave, which cannot be replaced by an economic compensation, shall be the one agreed in the collective agreement or in the individual contract. It can never be lower than 30 calendar days.

The CBA applicable to the company can establish an annual leave period which is more beneficial for the employees.



## **Working time**

Employees can incur in a total of 40 hours per week (on an annual average). The working day must not exceed 9 hours, which must include a rest period of at least 15 minutes when employees work for 6 hours at a stretch.

Resting period: At least 12 hours must elapse between the end of a working day and the beginning of the next one.

Night shift: It is established to be a night shift when employees render services between 10:00 p.m. and 6:00 a.m.

## **Overtime**

According to the CBA or, in its absence, to the individual contract, overtime may be paid in an economic amount or with resting time.

Number of overtime hours cannot exceed 80 hours per year.

## **Temporary disability benefits**

This subsidy starts from the fourth day of the leave for common diseases or non-work-related injuries, if the requirements established by the regulations are fulfilled; and from the day following the date of leave for work-related injuries or occupational diseases. As a general rule, the duration of this subsidy will be 365 days, and could then be extended for a further 180 days if special conditions are fulfilled.

In general, payment will be made by the company on behalf of Social Security as a delegated payment with the same periodicity as salaries.

## **Maternity or paternity Leave**

Paid maternity and paternity leave will have a duration of 16 weeks with the first 6 weeks compulsorily to be enjoyed immediately after childbirth.

The subsidy is paid by the National Social Security Institute (INSS).

## **Termination of the employment contract**

Under the Spanish Labor law, the employment relationships may be terminated by:

- Mutual agreement between the parties
- Voluntary termination of the employee
- Expiration of a fix-term contract
- Death, severe disability or permanent total or absolute disability

- Employee's retirement
- Objective dismissal (can be individual or collective dismissal)
- Disciplinary dismissal

The employee is entitled to a severance due to the termination of an employment contract in case of:

- Fix-term contracts for a project or services or termination of fix-term contracts due to production circumstances: Employee is entitled to receive a severance consisting on 12 days of salary per year of service.
- Objective dismissal: The employee is entitled to receive a severance of 20 days of salary per year of service, with a maximum of 12 months of salary.

In case of individual dismissals, if the grounds included do not correspond to reality, the dismissal may be considered as an unfair dismissal. The severance payment compensation will be equal to 33 or 45 days of salary per year of service with a maximum of 24 or 42 months of salary.

## 4. Payroll requirement

### Payment frequency

Employees must receive their salaries recurrently on a monthly basis. As a general rule, employees shall receive their remuneration between the 25th of each month and the 5th of the following month.

Depending of the CBA applicable, the employees are entitled to receive their gross annual salary in 12 annual payments, or in 14 payments (12 regular months plus summer and Christmas extra payments). Depending on the CBA, a different number of extra payments can be established.

### Payslip

Companies are required to prepare the employee's payslip on a monthly basis.

Payslip must be produced according to the official format and should contain:

1. Employer data (Tax ID Number, company name, company address, Contribution Account Code)
2. Employee personal information (name, tax ID, address, social security number, job position)
3. The remuneration payable (description, number of payment days, total

amount to be paid)

4. Deduction elements (withholding taxes, social security and others)
5. Net payment and employer social security contributions information

Companies are required to distribute the payslip to employees. Electronically distribution method is preferred.

### **Personal tax information**

Employees are required to provide the employer with the related 145 Tax Form to notify the PIT required for tax rate calculation purposes.

Generally, this tax form is provided once the employee is hired by the company.

However, the employee is bound to provide the tax form in case of any change of data previously notified.

An important point to be noted is that companies should keep a copy of the tax form available in case the Tax Agency requires it.

### **PIT certificate**

On a yearly basis, companies must issue the income tax certificate which reflects the total income perceived by the employee and the withholding taxes applied on payroll during the fiscal year.

The employees must be provided with this certificate signed and with the company's stamp before the personal income tax submission starts, usually on 1 April of the following year.

### **5. Banking requirements related to payroll**

As a general rule, companies employ an electronic transfer file using the Single Euro Payment Area (SEPA) protocol. Payments must be done in Euros.