

Spanish Ruling Restricts Ability of Residents Subject to Expatriate Regime to Claim Deduction for Taxes Paid in US

22 May 2023

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The General Directorate of Taxes issued a ruling that rejects the possibility for a Spanish resident, subject to the Expatriates Regime, to claim a deduction for the tax paid in the United States under the tax treaty and domestic legislation in Spain.

The applicant intended to apply for the special tax regime, applicable to an employee posted in Spain (the Expatriates Regime). The applicant held a permanent resident card in the United States (also known as the Green Card).

The tax authorities concluded that the applicant would not be considered as a resident of Spain for the purposes of the [Spain - United States Income Tax Treaty \(1990\) \(as amended through 2013\)](#) if he/she was subject to taxation under the Expatriates Regime. Accordingly, if the United States taxed the applicant, the tax borne by the tax resident in the United States would not be eligible for a deduction under the tax treaty and domestic legislation for the avoidance of international double taxation. In this case, it would be up to the United States to eliminate the double taxation.

The ruling V0698-23, was issued on 23 March 2023 but was published recently on 11 May 2023, available [here](#) (in Spanish only).