

New Tax Legislation in the Budget Law for 2015

(Law 36/2014, of December 26, 2014.
Official State Gazette of December 30, 2014)

The Official State Gazette of December 30, 2014 published the General State Budget Law for 2015 (**Budget Law for 2015**), which, in the field of taxation, basically only revises the aspects of the law that are traditionally amended by the Budget Law and affect some of the main elements of the tax system.

The main new tax measures contained in this Law are described below.

1. Personal income tax

1.1 *Compensation in 2014 for receipt of income from movable capital generated over more than two years*

Law 35/2006, of November 28, 2006 eliminated the 40% or 75% reduction, as applicable, for some types of multiyear income from movable capital. In order to prevent this measure from having an adverse impact on taxpayers that acquired financial instruments before January 20, 2006, the Budget Law provides compensation each year, as follows:

- (i) The compensation applies to the following income:
 - Income obtained for the assignment to third parties of own capital derived from financial instruments acquired before January 20, 2006, to which the 40% reduction would have applied due to having a generation period of more than two years.
 - Income from amounts received in the form of deferred capital derived from life or disability insurance taken out before January 20, 2006, and to which the 40% or 75% reduction would have applied.
- (ii) The compensation will be equal to the positive difference between the sum resulting from applying the tax rates for savings income to the positive balance resulting from adding together and offsetting against each other the total for the net income referred to above, and the imputed gross tax payable.

This imputed gross tax payable will be calculated as follows:

- Where the balance resulting from adding together and offsetting the items of income referred to above against each other, and applying the relevant reduction percentages, is zero or negative, the imputed gross tax payable will be zero.
- Where that balance is positive, the imputed gross tax payable will be the positive difference between (i) the tax payable resulting from applying the central government and autonomous community rate scale established in the legislation in

force as of December 31, 2014 (including the supplementary charge) to the sum of the general component of net taxable income and that positive balance, and (ii) the tax payable resulting from applying the same scales to the general component of net taxable income.

In order to determine the balance, in the case of life and disability insurance benefits, the reductions will only apply to premiums paid up to January 19, 2006. However, they will also apply to those paid after that date in the case of ordinary premiums envisaged in the original insurance contract.

- (iii) To determine the portion of the total income obtained that relates to each premium under a deferred capital insurance contract, the total income will be multiplied by the weighting ratio, calculated by dividing:
- the premium multiplied by the number of years elapsed from the time it was paid until the benefits were collected; by
 - the sum of the figures resulting from multiplying each premium by the number of years elapsed from the time it was paid until the benefits were collected.

The insurer must notify the taxpayer of the amount of net income from the benefits received in the form of deferred capital from life and disability insurance relating to each premium, calculated as described in the preceding paragraphs.

- (iv) The amount of the compensation will be subtracted from the total net tax payable, after subtracting the allowance for obtaining salary income or performing economic activities.

Lastly, it is specified that any references made in the transitional provision regulating this compensation, to Law 35/2006, of November 28, 2006, will be deemed made to its wording in force until December 31, 2014.

1.2 Indexation allowance multipliers in real estate transfers

The indexation allowance multipliers applicable to the cost price prior to the entry into force of Law 26/2014, of November 27, 2014, which amended, among others, Personal Income Tax Law 35/2006, of November 28, 2006, no longer appear in the Budget Law for 2015, given that this law has eliminated this indexation mechanism for 2015 and following years. These multipliers, it should be recalled, applied to transfers of real estate for consideration.

2. Corporate income tax

The Budget Law for 2015 amends, effective January 1, 2015, transitional provision thirty-six of Corporate Income Tax Law 27/2014, of November 27, 2014, by establishing that the limit for offsetting tax losses and deferred tax assets for tax periods commencing in 2016 will be 60% (in Law 27/2014 the percentage was set at 70% by mistake).

In addition, as in the case of personal income tax, the mechanism for revising cost prices in real estate transfers has been eliminated for fiscal years commencing on or after January 1, 2015, which is why the indexation allowance multipliers do not appear in the Budget Law for 2015.

3. Wealth tax

Royal Decree-law 13/2011 temporarily reinstated wealth tax for fiscal years 2011 and 2012, after it had been eliminated in practice since 2008, through the application of a 100% reduction introduced by Law 4/2008.

In Law 16/2012 and in the General State Budget Law for 2014, the regime applicable in fiscal years 2011 and 2012 was extended to apply in 2013 and 2014, respectively; and now the General State Budget Law for 2015 has again extended the current regime to 2015, so the 100% reduction will not be reinstated, in principle, until 2016.

However, you are reminded that although this has been a change at central government level, the autonomous communities have made use of their legislative powers in this respect, so potential taxpayers should consult the specific legislation for the autonomous community where they are resident.

4. Other changes

4.1 Transfer and stamp tax

The Budget Law has revised by 1%, for fiscal year 2015, the scale of tax rates applicable to transfers and reinstatement of titles of nobility.

In addition, an exemption is established for all transactions subject to capital duty for private equity funds in order to bring their treatment into line with that of mortgage securitization funds and financial asset securitization funds.

4.2 Local taxes

4.2.1 Real estate tax. Revision of cadastral values

Different index-linked adjustment multipliers for the cadastral value have been set for 2015 based on the year of entry into force of the cadastral values resulting from a collective valuation procedure (under the method of comparison to local property values). The application of these multipliers will require prior fulfillment of the requirements established in article 32.2 of the Revised Real Estate Cadaster Law. These multipliers are as follows:

Year of entry into force of comparative values	Adjustment multipliers
1984, 1985, 1986 y 1987	1.13
1988	1.12
1989	1.11
1990, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001 and 2002	1.10
2003	1.06
2006	0.83
2007	0.78

Year of entry into force of comparative values	Adjustment multipliers
2008	0.71
2009	0.78

The above multipliers will be applied as follows:

- In the case of real estate valued according to data on file at the Real Estate Cadaster, the multipliers will apply to the value assigned to those assets for 2014.
- In the case of cadastral values notified in fiscal year 2014, obtained from applying the partial comparative values approved in that year, they will apply to those values.
- Where alterations have been made to the characteristics of the real estate, according to the data on file at the Real Estate Cadaster, and the changes have not become effective, the multipliers will apply to the value assigned to those properties according to the new circumstances, by the authority in charge of the Cadaster, using the modules that would have served as a basis for setting the cadastral values of the other properties in the municipality.

In addition, for fiscal year 2015, the following time limits are extended to July 31, 2015:

- The time limit for requesting the Directorate-General of the Cadaster to apply the multipliers based on the year of entry into force of the cadastral values resulting from the collective valuation procedure by comparison to local property values.
- The time limit for the approval of the new real estate tax rates by municipal councils affected by general collective valuation procedures that are to take effect on January 1, 2016.
- The deadline for approving and publishing the values that result from the comparison of local property values.

Lastly, effective January 1, 2015 and for an indefinite term, the power to determine the net tax base for real estate tax purposes conferred on municipal councils will be exercised by the Directorate-General of the Cadaster, unless the municipal council informs the Directorate-General of the Cadaster that it will exercise the power before the end of the month of February of the year in which it decides to exercise the power.

4.2.2 *Real estate tax and tax on the increase in urban land value. 2001 earthquakes in Lorca*

A 50% reduction in real estate tax has been established for fiscal year 2015, with the same requirements as for the exemption from this tax established in article 12 of Royal Decree-law 6/2011, of May 13, 2011, adopting urgent measures to repair the damage caused by the earthquakes that occurred on May 11, 2011 in Lorca, Murcia.

Also, for 2015, a 50% reduction in the tax on the increase in urban land value has been provided for transfers of real estate (dwellings, industrial and business establishments, work premises and the like, located in the municipality of Lorca, as referred to in article 12.1 of Royal Decree-law 6/2011, of May 13, 2011) carried out to rebuild the area affected by those earthquakes.

4.3 Charges

As happens every year, the Budget Law for 2015 has revised the flat rates for charges by the central government public finance authority, this time by 1%. This revision has been made with the exception of charges that were specifically created or increased by provisions enacted in 2014. As usual, the Budget Law contains certain exceptions and specific features for certain charges.

The charges applied by the Central Traffic Department, after applying the above multiplier, will be adjusted to the next higher multiple of 10 cents, except where the amount to be adjusted is a multiple of 10 cents.

Furthermore:

- (i) For fiscal year 2015, the following have remained unchanged, in general terms: (i) the amount of the cadastral adjustment charge, (ii) the fixed rates and amounts established for the charges levied on games of chance, sweepstakes or gambling, (ii) the quantification of the parameters necessary to determine the amount of the charge for reserving the public radio spectrum, and (iii) the amounts of the landing fee and of the airport public levies.
- (ii) The charge by Spanish Accounting and Audit Institute for issuing auditor's reports has been increased.
- (iii) Reductions have been established for occupancy, vessel, passenger and goods charges at ports of general interest as well as the adjustment multipliers applicable to those charges.
- (iv) Lastly, the basic amounts of the port charges remain unchanged for fiscal year 2015.

4.4 Not-for-profit entities and tax incentives for patronage

4.4.1 Events of exceptional public interest

The Budget Law for 2015 determines that the following events are events of exceptional public interest, for the purposes of Law 49/2002, of December 23, 2002, on the tax treatment of not-for-profit entities and tax incentives for patronage (below are the translations of the names of those events and the length of the related support programs):

- 200 Anniversary of the Royal Theater and Twentieth Anniversary of the re-opening of the Royal Theater (from July 1, 2015 to June 30, 2018).
- IV Centennial of the death of Miguel de Cervantes (from January 1, 2015 to June 30, 2017).
- VIII Centennial of the University of Salamanca (from November 1, 2015 to October 31, 2018).
- Jerez, World Capital of Motorcycle Racing (from January 1, 2015 to December 31, 2017).

- Liébana Cantabria Jubilee Year 2017 (from April 16, 2015 to April 15, 2018).
- Women's World Program (from January 1, 2015 to December 31, 2017).
- 60th Anniversary of the Foundation of the Industrial Organization School (from January 1, 2015 to December 31, 2016).
- World Congress in the Stars 2017 (from January 1, 2015 to December 31, 2017).
- Barcelona Mobile World Capital (from January 1, 2015 to December 31, 2017).
- International Year of Light and light-based technologies (from January 1, 2015 to December 31, 2015).
- ORC Barcelona World Championship 2015 (from January 1, 2015 to December 31, 2015).
- Barcelona Equestrian Challenge (from November 1, 2015 to December 31, 2018).
- Women's Hockey World League Round 3 Events 2015 (from January 1, 2015 to December 31, 2018).
- Centennial of the Andalusian Royal Football Federation 2015 (from January 1, 2015 to December 31, 2015).

Lastly, the length of the event of exceptional public interest known as the "2015 Granada Winter University Games" is extended to June 30, 2016.

This means that a number of specific tax incentives for actions carried out to ensure the successful outcome of these events can be applied for.

In particular, the Budget Law establishes that the maximum tax benefits established in Law 49/2002, of December 23, 2002, will apply with respect to all of these events.

4.4.2 *Priority patronage activities*

Following suit from previous years, the Budget Law for 2015 includes a list of priority patronage activities and programs for the purposes of applying the tax incentives established for them in Law 49/2002, of December 23, 2002.

For these activities, as in 2014, the tax credit rates and limits established in Law 49/2002 will be raised by five percentage points. However, a limit of 50,000 euros per year is introduced for each contributor for some of the activities indicated.

4.5 **Public Multi-Purpose Income Indicator**

The Public Multi-Purpose Income Indicator, which is referred to, among others, in the personal income tax legislation (for example, regarding the exemption for benefits received by reason of taking in minors, disabled persons and persons aged over 65, which is confined to cases where the person's other income does not exceed that indicator) is set, for 2015, at the following figures:

- Daily indicator: 17.75 euros.

- Monthly indicator: 532.51 euros.
- Annual indicator: 6,390.13 euros.

In addition, where reference to the minimum wage has been replaced by a reference to the Public Multi-Purpose Income Indicator (as occurs in the exemption mentioned above), the annual indicator will be 7,455.14 euros, provided the reference to the minimum wage involves the annual figure (unless nonregular salary payments are expressly excluded; in this case, the amount would be 6,390.13 euros).

4.6 Legal interest rate for money and late-payment interest

For 2015, the legal interest rate for money is set at 3.5% and the late-payment interest rate, at 4.375%.