

## Summary of the tax measures in the General State Budget Law for 2023

Among others, a new bracket has been created for personal income tax on savings income, a reduced tax rate has been established for entities with net revenues below €1 million, and limits have been placed on the effective use rule for determining the place of supply of certain services for VAT purposes and for the purposes of the Canary Islands General indirect tax (IGIC). A new temporary special tax regime for the Balearic Islands has also been defined

[Law 31/2022 of December 23, 2022 on the General State Budget for 2023](#) (LPGE) was published in the Official State Gazette on December 24, 2022. It lays down specific rules on its entry into force in a few cases, as we explain below.

The law contains tax measures related to various taxes, which we summarize below.

### 1. Personal income tax

#### 1.1 Reductions for calculating net income

Effective on January 1, 2023.

a. The **reduction for salary income** has been increased.

More specifically, taxpayers with net salary incomes below €19,747.5 (formerly, €16,825) who have no income (not counting exempt amounts) other than salary income exceeding €6,500, may reduce their net salary income by the following amounts:

- If their net salary income is equal to or below €14,047.50 (formerly, €13,115): €6,498 per annum (formerly, €5,565).
- If their net salary income is between €14,047.50 and €19,747.50 (formerly between €13,115 and €16,825): €6,498 less the result of multiplying the difference between salary income and €14,047.50 per annum by 1.14 (formerly, 1.5 by the difference between the income figure and €13,115 per annum).

b. The **reduction applicable to economically dependent self-employed workers has similarly been increased** with the same ranges and amounts.

Effective in 2023 only:

- a. **Simplified direct assessment**: The deduction rate for all deductible provisions and unsupported expenses has been increased from 5% to 7%.

This rate may be changed through regulatory provisions.

- b. **Objective assessment**: Net income by modules obtained in 2023 may be reduced by 10%, in the manner that will be stipulated in the Order approving the signs, indicators or modules for that fiscal year.

## 1.2 Quantitative limits under the objective assessment method

The quantitative limits defining, for IRPF purposes, the scope of application of the objective assessment method have been extended to apply in 2023, except in the case of agricultural, livestock and forestry activities, which have their own quantitative limit based on revenue volume.

It has also extended to apply in 2023 the thresholds for claiming the simplified VAT scheme and for the special VAT scheme for agriculture, livestock and fishing.

## 1.3 Imputed income from real estate

In 2023, the real estate income imputation percentage equal to 1.1% of the cadastral value will apply only in the case of properties located in municipalities in which cadastral values have been reviewed, modified or determined by means of a general collective valuation procedure, in accordance with the cadastral regulations, provided that such values came into force on or after January 1, 2012. In all other cases, the imputation percentage will be 2%.

## 1.4 Contributions to employee welfare programs

Effective on January 1, 2023, reductions to the tax base for contributions to employee welfare programs will be subject to an overall maximum limit (as has been the case to date, following the recent reforms) equal to the lower of the following amounts:

- a. 30% of the sum of the net salary income and income from economic activities received individually in the year.
- b. €1,500 per annum

This limit must be increased, however, by the amounts indicated below:

- a. €8,500 per annum, if the increase comes from employer contributions or contributions made by the worker to the same employee welfare instrument in an amount equal to or lower than the amounts shown in the following table, depending on the annual amount of the employer's contribution:

| Annual amount of contribution | Maximum contribution by worker   |
|-------------------------------|--|
| Equal to or lower than €500   | An amount calculated by multiplying the employer's contribution by 2.5   |
| Between €500.01 and €1,500    | €1,250, plus an amount calculated by multiplying by 0.25 the difference between the employer's contribution and €500 |
| Above €1,500                  | An amount calculated by multiplying the employer's contribution by 1   |

The multiplier equal to 1 will be applicable in all cases where the worker obtains in the fiscal year gross salary income higher than €60,000 from the employer making the contribution, for which purpose the employer will have to notify the managing entity or insurance company where this is not the case.

For these purposes, any amounts contributed by the employer that stem from a decision by the employee will be treated as contributions by the employee.

- b. €4.250 per annum, provided that the increase comes from any of the following contribution types:
- Contributions to the sectoral pension plans under article 67.1.a) of the revised Pension Plans and Funds Law, made by self-employed workers or independent contractors who sign up to those plans on account of their activity.
  - Contributions made to the simplified occupational pension plans for self-employed workers or independent contractors under article 67.1.c) of the revised Pension Plans and Funds Law.
  - Own contributions made by an individual trader or professional to occupational pension plans, of which they are sponsor and also participant, or to welfare mutual insurance companies, of which they are member, as well as any made to company employee welfare plans or group dependence insurance policies of which they, in turn, are policyholder and insured.

In all cases, the maximum reduction allowed as a result of applying the increases referred to in letters a) and b) above is €8,500 per annum.

An additional limit equal to €5,000 per annum is envisaged for group dependency insurance premiums paid by the employer.

Consistently with these changes, the financial limit set for the aforementioned contributions in the revised Pension Plans and Funds Law approved by Legislative Royal Decree 1/2002 of November 29, 2002 has been modified.

### 1.5 New brackets in the tax scale for savings income

Effective on January 1, 2023, a new bracket has been added to the tax scale for savings income, which will be as follows (combining the state and autonomous community scales):

| Savings component of net taxable income<br>—<br>Up to € | Gross tax payable<br>—<br>€ | Remaining amount of savings component of net taxable income<br>—<br>Up to € | Applicable rate<br>—<br>Percentage |
|---|-----------------------------|---|------------------------------------|
| 0.00  | 0.00                        | 6,000.00  | 19                                 |
| 6,000.00  | 1,140.00                    | 44,000.00   | 21                                 |
| 50,000.00   | 10,380.00                   | 150,000.00  | 23                                 |
| 200,000.00  | 44,880.00                   | 100,000.00  | 27                                 |
| 300,000.00  | 71,880.00                   | Thereafter  | 28                                 |

This change is also applicable to taxpayers benefiting from the special regime for workers assigned to Spain.

### 1.6 Extension of maternity tax credit

Effective on January 1, 2023, the following amendments have been made to the maternity tax credit:

- a. This credit is available for women with children under the age of three who are entitled to apply the allowance for descendants, and (i) who at the time of the birth of the child are receiving contributory or non-contributory benefits under the unemployment protection system, (ii) or who at that time or at a later date are registered with the social security authorities or the relevant mutual insurance company, and in the latter case contributions have been paid for at least 30 days.
- b. The credit is to be calculated by reference to the months remaining in the tax period at the point at which the requirements referred to above are fulfilled, in which the woman is entitled to the allowance for descendants in respect of that child under three years of age, provided that in those months, neither parent (in relation to that descendant) receives the child support supplement under Law 19/2021 of December 20, 2021 establishing the guaranteed minimum income.
- c. Where entitlement to the tax credit in respect of the descendant in question is triggered by registration with the social security authorities or mutual insurance company after the birth of the child, the credit relating to the month in which the 30-day contribution period referred to in point a) above is completed must be increased by €150.
- d. The higher tax credit, allowed where childcare expenses for a child under three in respect of services provided by nurseries or authorized pre-school educational institutions have been paid in the taxable period, will continue to be calculated as has

been the case to date; it will nevertheless be limited to the total amount of the actual unsubsidized expense paid in that period to the nursery or educational institution (there is no longer any reference to social security contributions).

### **1.7 Reporting obligation**

Effective on January 1, 2023, the reporting obligation threshold has been raised from 14,000 to 15,000 for anyone receiving (i) salary income from more than one payer, (ii) non-exempt annual spousal and ascendant/descendant support or reimbursement alimony from a spouse, (iii) salary income not subject to withholding tax (because the payer does not have a withholding obligation), or (iv) salary income subject to a fixed withholding rate.

### **1.8 Withholdings on salary income paid in January 2023**

Withholdings to be made from salary income paid in cash or in kind in January 2023 (in respect of that month), to which the general rules for calculating the withholding rate are applicable, must be made in accordance with the legislation in force as of December 31, 2022. From February onwards, the rules in force as of January 1, 2023 will apply, meaning that the necessary rate adjustments will have to be made.

### **1.9 Withholding tax on certain income obtained by artists**

Effective on January 1, 2023:

- a. The withholding tax rate applicable to salary income deriving from the production of literary, artistic or scientific works will be lowered from 15% to 7% where (i) the amount of gross income from those types of activities relating to the immediately preceding year is lower than €15,000, (ii) it accounts for more than 75% of the sum of gross income from economic activities and salary income obtained by the taxpayer in that year; and (iii) the taxpayer notifies those facts to the payer.
- b. The withholding tax rate on intellectual property rights (however they are classed) has been lowered from 19% to 15%. The 7% rate will nevertheless be applicable (i) where the amounts in question are classed as salary income meeting the conditions described in the previous point, (ii) where they are classed as income from economic activities obtained by taxpayers who are initiating their activity, and (iii) where they consist of advance payments in respect of copyright licenses which are to fall due over several years.

### **1.10 Credit for actual and principal residence in La Palma in 2022 and 2023**

In 2022 and 2023, taxpayers who have their actual and principal residence in La Palma are able to deduct 60% of the portion of the sum of central government and autonomous community amounts of gross tax payable which relates, proportionally, to the income taken into account when determining the net taxable income obtained in that territory, subject to the terms and conditions envisaged in the rules for residents of Ceuta and Melilla.

## 2. Corporate Income Tax

### 2.1 Reduced tax rate

Effective for periods beginning on or after January 1, 2023, the tax rate for entities whose net revenues for the immediately preceding tax period amounts to less than €1 million has been lowered from 25% to 23%.

This 23% tax rate and the 15% rate envisaged for newly created entities that engage in economic activities and obtain positive taxable income will not apply to asset-holding companies.

### 2.2 Accelerated depreciation of vehicles

Investments in vehicles may be depreciated at twice the maximum straight-line depreciation rates provided on the official tables, if they are new FCV, FCHV, BEV, REEV or PHEV vehicles (as defined in the General Vehicle Regulations, approved by Royal Decree 2822/1998 of December 23, 1998) used for economic activities and are brought into operation in periods commencing in 2023, 2024 and 2025.

## 3. VAT and IGIC

Various amendments have been made to the laws on VAT and IGIC (the Canary Islands General Indirect Tax). These are summarized below (specifying whether the amendments relate to both taxes or only one of them):

### 3.1 Exemption for operations with the armed forces (VAT / IGIC)

In accordance with Council Directive (EU) 2019/2235 of December 16, 2019, an exemption has been allowed for supplies, imports and intra-Community acquisitions of goods (supplies of goods and services in the case of IGIC) made by the armed forces of the member states participating in activities within the framework of the common security and defense policy, for their use or for the use of civilian staff accompanying them, as well as for supplies to their messes or canteens.

The items in question must be utilized in a defense effort forming part of an activity of the European Union (EU) under its common security and defense policy.

### 3.2 Place of supply for services - Effective use and enjoyment rule (VAT / IGIC)

In order to guarantee the neutrality of the tax and the principle of taxable transactions being taxed at the place of destination, the application of the place-of-supply rule has been substantially restricted for supplies of services based on their effective use or enjoyment, and some new cases in which the rule must be applied have been introduced.

Specifically, starting on January 1, 2023, the following supplies of services will be regarded as being made in the VAT or IGIC areas, where the recipient is not established in the EU, but uses or enjoys the services in the area in which the tax is applicable:

- a. Supplies of a few of the “intangible” services contained in article 69. Two of the VAT Law and article 17. One.3 of the IGIC Law (advertising, consultancy, IT services, etc.), where the recipient is not acting as trader or professional.
- b. Financial or insurance services, where the recipient is classed as trader or professional.
- c. The leasing of modes of transport, whatever capacity the recipient is acting in.

### 3.3 Reverse charge mechanism (VAT / IGIC)

Application of the reverse charge mechanism has been broadened to include supplies of waste and scraps of plastic and textile materials; and the following cases have been excluded:

- a. Supplies of property leasing services subject to and not exempt from the tax, made by a non-established trader or professional.
- b. Supplies of property leasing intermediation services, made by non-established persons.

In the case of VAT, the reverse charge mechanism is not applicable in the following transactions:

- a. Exempt supplies of goods to a digital interface which are located in the Spanish VAT area.
- b. Supplies of goods dispatched to outside the Union by a person classed as an exporter.

### 3.4 Modification of the taxable amount (VAT / IGIC)

The following changes have been made to the procedure for recovering the chargeable VAT and IGIC amount in the event of non-payment:

- a. Modification of the taxable amount is permitted in relation to debts that are uncollectible as result of insolvency proceedings declared by a court of another member state.
- b. The minimum taxable amount for the transaction has been lowered from €300 to €50 where the defaulting recipient is the end consumer.
- c. The option has been provided of replacing the prior judicial claim or notarial demand issued to the debtor with any other form of evidence that provides reliable proof of the claim submitted to the debtor.
- d. The period for recovering the tax running the point at which the debt is declared uncollectible has been increased to 6 months. All taxpayers with a modification period still in progress as of the date of entry into force of the LPGE may apply this new period.



In relation to IGIC, it is also established (as had already been set out in the VAT Law) that it will not be possible to correct the output taxes charged where it is the tax authority that identifies (through the relevant assessments) uncharged amounts of tax due which exceed the reported amounts, if evidence is provided, in the form of objective facts, that the taxable person was participating in an instance of fraud, or knew or should have known (by employing reasonable diligence) that the transaction in question formed part of an instance of fraud.

### 3.5 New transactions subject to 4% VAT

The reduced 4% VAT rate has been broadened to include: (i) supplies of tampons, sanitary towels and pantyliners, and (ii) condoms and other non-medicinal contraceptives.

### 3.6 Foreign trade and customs (VAT / IGIC)

#### a. VAT

Several articles in the VAT Law have been updated for harmonization purposes, to bring their contents into line with EU customs legislation. Notably as follows:

- The discharge of non-customs warehousing arrangements for imported goods will in all cases constitute an "importation of goods", regardless of any exemptions that are applicable at the point when the goods were placed under the arrangement or when they remain under it.
- The rules on determining the taxable amount for importations of goods have been adapted to take into account exempt transactions taking place while the goods are (i) under customs warehousing arrangements or (ii) under non-customs warehousing arrangements or, lastly, (iii) they have been placed in certain customs situations.
- Supplies of goods dispatched or transported to outside the Union by a person having the status of exporter pursuant to customs legislation (or by a third party acting in the name and on behalf of that person) will be exempt, even where that person is not the acquiring party or transferor. This same provision is envisaged in the conditions for application of the exemption for work performed on movable goods which are to be exported.
- It is expressly provided that the tax on imports is to be settled on the basis of the information supplied by the member state of importation in cases of centralized clearance.
- The following rules have been expressly provided in relation to transactions treated as exports:
  - The exclusion of the concept of importation on the occasion of the unbundling or removal of these goods from different customs situations or customs procedures for transactions treated as exports other than the supply of goods (i.e. chartering or leasing of vessels or aircraft or leasing of the elements to be incorporated in these modes of transport).



- The exemption for services supplied by professional stevedores associated with ship loading (loading, unloading, transit, stowage, unstowage) in favor of stevedoring companies that in turn use them to provide services to shipping operators.
- The prevalence of exemptions for domestic transactions, exports and intra-Community supplies, in the same way as for exemptions associated with temporary storage or other situations.

#### b. IGIC

Various articles in the IGIC have been updated for harmonization purposes, to bring their content into line with EU customs legislation.

- The definition of "third territory" for the purposes of the IGIC has been clarified. Specifically, this definition will include the Spanish mainland, the Balearic Islands, Ceuta, Melilla and any other EU member state or third country.
- Exemptions have been implemented for supplies of goods under the rules for travelers and tax-free shops as set out in the VAT regulations and powers have been devolved to the Canary Islands government to be implemented in secondary legislation.
- The exemptions relating to exports of goods now include supplies of goods dispatched or transported to a third territory by a person having exporter status under the customs regulations (or by a third party acting for and on behalf of such an exporter), even if this is not the person acquiring or transferring the goods. The same provision is included in the conditions for application of the exemption to work carried out on movable goods to be exported.
- The conditions that must be fulfilled for a service to be considered exempt from IGIC because it is directly related to an export of goods have been established.

Namely:

- The services must be provided for the benefit of the parties by which such exports are made, the recipients of the goods, their customs representatives, or forwarding agents and shippers acting on behalf of the above.
  - The services must be supplied from the point in time at which the goods are dispatched directly to a destination outside the area where the tax applies or to a place located within a port or airport zone for immediate dispatch to a place outside that area.
- With regard to the exemption relating to supplies of services made by intermediaries acting in the name and on behalf of third parties in export transactions exempt from IGIC, the exception that had existed until now has been abolished, meaning that it will be possible to apply the exemption to mediation

services provided by travel agencies which enter into contracts in the name and on behalf of the traveler.

- Imports of goods made by the Commission or by a body or organization established pursuant to EU law, in the exercise of their functions under EU Law in relation to the pandemic, will be exempt, except where the goods are used, immediately or at a later date, for subsequent supplies for consideration made by these recipients.

### 3.7 E-commerce (VAT)

In the field of e-commerce, technical adjustments have been introduced into the VAT Law in order to (i) provide a more precise definition of the rules concerning the place of performance of intra-Community distance sales; and (ii) specify that, for the threshold allowing taxation at source to apply, the goods must be sent exclusively from the member state of establishment.

### 3.8 Changes to deduction rules (IGIC)

#### 3.8.1 Implicit tax burden has been defined

Although this is not new, the definition of “implicit tax burden” (regulated up until now by article 60.3 of Royal Decree 2538/1994 of December 29, 1994) has been introduced into the IGIC Law, to allow deduction of the IGIC implicit in the consideration relating to acquisitions made from retailers.

The amount of the implicit IGIC is determined by applying a multiplier to the amount of the consideration. The value of that multiplier is obtained by multiplying by 0.7 the tax rate that would be applicable to the supplies of goods were they not exempt, using the following formula:

$$M = (0.7 \times R) / 100.$$

Where M is the multiplier to be applied and R is the relevant tax rate.

#### 3.8.2 Limitations, exclusions and restrictions regarding the right to deduct

Changes have been made to the IGIC rules on limitations, exclusions and restrictions regarding the right to deduct input tax. Namely:

- a. Any assets or rights which do not appear in the books of account or official records of the taxable person's trading or professional activity will not be regarded as being used directly and exclusively in that activity.
- b. The right to deduct input IGIC incurred on the acquisition of passenger cars and their trailers, mopeds and motorbikes has been made more flexible, with a presumption that these assets are used in a 50% portion in the trading or professional activity.

The same principle will apply in relation to the input IGIC incurred, among others, on the acquisition or importation of accessories and spare parts, fuel or repairs for motor vehicles.

- c. The incurred input IGIC must be adjusted where it is proven that the actual degree of use in the conduct of the trading or professional activity differs from that initially applied.

The adjustment must follow the procedure established for capital goods, by replacing the percentage of transactions generating entitlement to deduction, with respect to the total, with the percentage representing the actual degree of use in the conduct of the trading or professional activity.

- d. It will be allowed to deduct the input tax incurred on the acquisition of goods intended exclusively for the making of supplies or the licensing of their use — either directly or through their processing — for consideration, and which after they are acquired are used to make gifts to customers, employees or third parties.

### 3.8.3 Deductible proportion rule

The IGIC rules in relation to the deductible proportion have been amended as follows:

- a. Transactions not subject to the IGIC pursuant to the provisions of article 9 of the law on the tax are not to be included when determining the applicable deductible proportion percentage.
- b. In the case of definitive exports, in the absence of any consideration, the internal Canary Islands value has to be taken as the transaction value.
- c. In the case of work performed and services supplied outside the Canary Islands, the transaction value has to be calculated by multiplying the total consideration by the multiplier obtained by dividing the portion of the cost incurred in the Canary Islands by the total cost of the transaction, and the costs of the company's dependent personnel cannot be included in the calculation.

### 3.8.4 Adjustments for capital goods

IGIC and VAT legislation have been harmonized in relation to the adjustment of deductions in respect of capital goods. Specifically, in cases in which the taxable person uses capital goods to perform transactions in which the right to deduct IGIC is limited, excluded or restricted, the capital good will be regarded as having been used exclusively in the performance of transactions that do not generate a right to deduct, throughout the whole year in which the transaction was performed and the remaining years through to the end of the adjustment period.

## 4. New temporary special tax regime for the Balearic Islands

A new special tax regime for the Balearic Islands (REB) has been defined, based on its island status. It consists of a set of tax measures applicable throughout the Balearic Island

autonomous community, for taxable periods commencing between January 1, 2023 and December 31, 2028.

The REB is composed of two tax measures:

#### 4.1 Reserve for investments in the Balearic Islands

This measure is targeted at corporate income taxpayers, nonresident income taxpayers who have permanent establishments in the Balearic Islands and personal income taxpayers who obtain income from economic activities under the direct assessment method:

a. Corporate income taxpayers and nonresident income taxpayers: may apply a reduction to their taxable amount in respect of any amounts of income that are allocated to recording a reserve for making certain types of investments in the Balearic Islands, subject to a limit equal to 90% of the portion of undistributed income that comes from establishments located in this autonomous community. The investments must be made within three years (including the year in which the allocation was made to the reserve) and may consist of any of the following:

- i. Acquisition of premises plant and equipment or intangible assets, of assets contributing to enhancing and protecting the environment in the Balearic Islands; and R&D&I expenses.

If the investment is in land, developed or otherwise, it must relate to (i) the development of protected housing, (ii) the performance of industrial activities, (iii) health and social care activities, (iv) the renovation of shopping and restaurant areas, or (v) tourism activities, although the land must be acquired in this case for renovation of a tourism establishment.

Trademarks and unpatented know-how are excluded from eligible intangible assets, subject to the terms that will be determined by secondary legislation. Additionally, certain limits and requirements have been determined for investments in transport equipment.

- ii. Creation of jobs related to those investments, in a 6 month period following the date they are brought into operation. That increase in headcount has to be retained for 5 years.
- iii. Subscription to shares in companies conducting their activities in the Balearic Islands, where those investments are made within 3 years from when the tax falls due for the fiscal year in which the funds were allocated to the reserve.

The investments must be made in assets located or received in the Balearic Islands and must remain in operation for at least five years, in which period they cannot be transferred, leased or licensed for use by third parties. The reserve is allowed to be used for investments by taxpayers whose economic activity consists of leasing or licensing fixed assets for use by third parties and they also fulfill certain additional requirements. It has also been stated that fixed assets acquired under finance leases are eligible.

The reserve has to appear on the balance sheet as a completely separate item and under an appropriate heading for the minimum holding period for the investment. The reduction cannot under any circumstances make the taxable amount fall below zero.

- b. Personal income taxpayers: personal income taxpayers carrying on economic activities under the direct assessment method will be entitled to a tax credit deductible from gross tax payable in respect of any net operating income that is allocated to the reserve, and which comes from economic activities conducted in establishments located in the Balearic Islands. The amounts allocated to the reserve must be used to make the investments described above within 3 years, and the same holding requirements as those mentioned above must be fulfilled.

The tax credit has to be calculated by applying the average personal income tax rate to annual allocations to the reserve and is subject to a limit equal to 80% of the portion of gross tax payable proportionally relating to net income from establishments located in the Balearic Islands.

#### 4.2 Special regime for industrial, agricultural and fishing companies

A reduction has been allowed for corporate income taxpayers, nonresident income taxpayers and personal income taxpayers who carry on industrial, agricultural or fishing activities. The reduction amounts to 10% of their gross tax payable relating to income obtained from the sale of tangible property produced in the Balearic Islands. To be able to apply this reduction the average headcount for the period cannot go below the average headcount relating to the twelve months before the start of the first taxable period.

The reduction is increased to 25% in the taxable periods in which an average increase has occurred in the average headcount for not below a unit with respect to the average headcount in the previous taxable period, subject to that increase being retained for at least three years.

The reduction does not apply to income obtained from the sale of tangible property produced in the Balearic Islands associated with shipbuilding, synthetic fibers, the automotive industry, the iron and steel industry and the coal industry.

### 5. Tax regime for the special Canary Islands Special Zone (ZEC)

The ZEC rules have been amended in relation to when certain activities are considered to be performed within the ZEC, for the purpose of being eligible for the 4% corporate income tax rate on the income obtained from those activities. This amendment is not accompanied by a transitional regime.

#### 5.1 Triangulation arrangements

Transfers of goods which do not physically pass through the ZEC will be regarded as being performed in the ZEC where the following conditions are fulfilled:

- a. The transactions must have been organized, managed, arranged and invoiced from the Canary Islands.
- b. At least 90% of the expenses incurred to perform those transactions must relate to use of the entity's personal and material resources located in the Canary Islands.

The acquisition cost of the supplied goods and the costs associated with their transportation and movement is not included to calculate this percentage.

Taxpayers performing the transactions in these triangulation arrangements will have to file an information return quarterly on the transactions performed outside the ZEC in which they will have to report the origin and destination of the goods, the types of goods and their amounts; in addition to having to keep records of the customs documents.

## 5.2 Airline companies

The aircraft of entities supplying air carrier services will be regarded as being located in the ZEC where, due to their destination, they contribute to enhancing connections with the islands in the following cases:

- a. Scheduled air traffic, where the aircraft have been used in the taxable period to supply carrier services in the Canary Islands or between there and other areas.
- b. In relation to occasional or unscheduled air traffic, where more than 50% of their flight hours in the taxable period relate to carrier services supplied within the ZEC or between the ZEC and other areas. For flights with layovers the total number of flight hours will include the part that does not have its origin or destination in the Canary Islands, if the ticket mentions the whole of a journey which has either its origin or destination in the Canary Islands.

To determine the taxable amount in the ZEC for entities providing air carrier services, the numerator of the fraction must include:

- a. The revenues obtained from carrying passengers or cargo on direct flights or layover flights with origin or destination in the Canary Islands.
- b. The revenues obtained from ancillary services on flights supplied by reason of that type of transport which are not included in the ticket price, and all other revenues obtained from on-board services to passengers, where they fall within the authorized activities.

These revenues have to be included in the taxable amount in the proportion that the expenses incurred on material and human resources within the ZEC bear to the total cost of providing the carrier service.

The costs associated with providing the carrier service in respect of the portion of the journey with origin or destination in the Canary Islands will be considered to relate to material and human resources located in the Canary Islands.

The proportional part of revenues from carrying passengers or goods or on-board revenues that relate to activities managed by places of business or establishments located outside the Canary Islands cannot be included.

### 5.3 Computer software and industrial or intellectual property rights

The licensing for commercial or non-commercial use of industrial property rights which are not simply the distinctive signs of the taxpayer or of their products and of intellectual property rights, as well as their transfer to unrelated entities, created by the entity in the Canary Islands will be regarded as being performed within the ZEC in the percentage obtained from the following fraction:

- a. In the numerator, the expenses incurred by the entity directly related to the creation of the assets which are associated with the use of the entity's human and material resources located in the Canary Islands and the expenses in respect of outsourcing arrangements with third parties not related to the entity for activities performed with material and human resources located in that area, provided the entity adopts its own decisions on the organization of its resources and on the outsourcing arrangement (without taking into account general administration decisions at the entity or group).
- b. In the denominator, all the expenses incurred by the entity which are directly related to creation of the assets.

Finance costs, real estate depreciation or other expenses not directly related to creation of the assets cannot be included in the foregoing fraction.

## 6. Local taxes

### 6.1 Tax on economic activities (IAE)

Various amendments have been made to the tax on economic activities classifications:

- a. The tax liability for the mobile phone sector has been adapted to the ruling in supreme court judgment 966/2022 of July 14, 2022, in which, by applying EU law, the court held to be unjustified the higher amount of tax on economic activities for mobile phone activities than for landline activities.
- b. A new group 848 has been added to provide a specific classification for flexible office, coworking and business center services.
- c. New groups have been created in section two with a view to (i) providing a specific classification for the activities carried on by writers and scriptwriters (group 864), (ii) including professionals related to artistic and cultural activities not classified in section three (group 869); and (iii) expressly including mountain guides (group 889).
- d. A new group 034 has been created in section three with a view to providing a specific classification for composers, songwriters, music arrangers and adapters for the purposes of this tax.



- e. Lastly, group 861 in section two for professional activities, which relates to painters, sculptors, ceramicists, craftspersons, engravers and similar will include *artistas falleros* (creators of Las Fallas statues) for the first time.

## 6.2 Tax on increase in urban land value

An update has been made to the amounts of maximum multipliers set out in Royal Decree-Law 26/2021 of November 8, 2021 which must be applied to the land value (by reference to the generation period of the increase in value) to determine the taxable amount for the municipal tax on increase in urban land value under the objective method set out in the current law.

## 7. Excise tax on production

The law has transposed Council Directive (EU) 2019/2235 of 16 December 2019 concerning the general arrangements for excise duty as regards defence efforts within the Union framework.

Namely, effective on July 1, 2022, the following transactions will become exempt from excise taxes on production (i) the production and the importation of products subject to excise taxes on production, and (ii) supplies of electricity where in both cases they are intended to be used by the armed forces of any member state other than Spain; if they are for use by these armed forces or by civilian staff accompanying them, or for supplying their messes or canteens, where such forces take part in a defense effort carried out for the implementation of a Union activity under the common security and defense policy.

## 8. Amendment of the General Taxation Law (LGT)

### 8.1 Disclosure of confidential tax-relevant information

Article 95 LGT states that any data, reports or contextual information obtained by the tax authorities in the performance of their functions are confidential and may only be used for the effective application of the taxes or appeals consigned to be managed by them and for the imposition of any penalties that may be required. It is also stated that they cannot be transferred or disclosed to third parties either.

A number of exceptions have been provided to this disclosure prohibition. Among others, disclosure to third parties is allowed where its purpose is to cooperate with the public authorities in relation to combating tax offenses and combating fraud in obtaining or receiving support or subsidies out of public or EU funds.

Effective on January 1, 2023, this exception has been broadened to include cases where the disclosure is for the purpose of preventing, detecting or correcting fraud, corruption and conflicts of interest having an effect on the EU's financial interests.

## 8.2 Amendment to the new regime for deferred and split payments of tax debts.

Law 16/2022 of September 5, 2022 on the reform of the revised Insolvency Law ([September 2022 Tax Newsletter](#)) introduced a new regime for deferred and split payments of tax debts managed by AEAT, applicable to debts in the voluntary or enforced payment period, where the taxpayer's economic and financial situation temporarily prevents them from making payment in the stipulated periods.

That regime has been amended as follows:

- a. An application may be made for deferred or split payment of central government tax penalties (not just of central government tax debts).
- b. The option of applying for deferred or split payment has been restricted. It will only be possible if the debtor has made the pre-insolvency notice (of negotiations with its creditors) under article 585 or article 690 of the revised Insolvency Law, and on condition that the restructuring plan has not been formalized in a public instrument, that the continuation plan has not been approved, that the insolvency order has not been made and that the special proceeding for microbusinesses has not been commenced.
- c. The time limits are now as follows:
  - Six months, (i) where the debts are for a lower amount than that determined under tax law, in other words, than €30,000 (article 82.2.a) LGT) and (ii) where the debts relate to legal entities or the entities under article 35.4 LGT (undistributed estates, joint-property entities and other entities without a separate legal personality which constitute a business unit or a taxable separate set of assets).
  - Twelve months, where (i) the taxpayer has insufficient assets to secure the debt, on condition that (ii) enforcing payment against the taxpayer's assets could have a material adverse effect on the maintaining of the production capacity and level of employment of the economic activity or could have a serious adverse impact on the interests of the public purse.

This time limit will also apply to individuals, where the debts are below the amount determined in tax law, in other words, €30,000 (article 82.2 a) LGT).

The amount of the debt will be calculated by adding together the debts to which the application relates, plus any other debts owed by the same debtor for which an application for deferred or split payment has been made but not decided upon, plus any outstanding past-due debts which have been deferred or split, unless they have been appropriately secured.

- Twenty-four months, where the deferred or split payments are secured by a mortgage, pledge or personal or joint and several guarantee or it is possible to apply to the tax authorities to adopt injunctive remedies to replace the security or guarantees mentioned.

- Thirty-six months, where the deferred or split payments are secured with a joint and several guarantee from a credit institution or surety bond certificate.

## 9. Other amendments

### 9.1 Tax regime for the 37th America's Cup Barcelona event

The support program for the 37th America's Cup Barcelona has been declared an event of exceptional public interest. The term of the event will run from the entry into force of the General State Budget Law until December 31, 2025.

A special tax regime has been defined for this event as summarized below:

- a. The following entities will be considered public benefit entities benefitting from patronage while the event is held (i) any not-for-profit entities created by reason of the event by the organizer entity or by the participating teams, (ii) the consortium or administrative body referred to in article 27.2.b) of Law 49/2002 of December 23, 2002; and (iii) any not-for-profit entities, including associations created by reason of the event, to promote and drive the event, and, as the case may be, of sailing activities generally, in which any public authorities, public entities or the private parties promoting the event participate.
- b. Any Spanish resident legal entities formed by reason of the event by the organizer entity or by the participating teams will be exempt from corporate income tax on the income obtained between April 1, 2022 and December 31, 2025 by reason of the event, if it is directly related to their participation in it. The same exemption will also apply to any permanent establishments that the organizing entity or the participating teams create in Spain during the event.
- c. Income will not be regarded as being obtained in Spain (and, therefore, will not be taxable in Spain) where it is received by individuals providing their services to the organizer entity or to the participating teams who are not Spanish residents and it is obtained during the holding of the event, if it is directly related to their participation in the event.

Anyone who becomes a personal income taxpayer as a result of being sent to Spain by reason of this event, will be able to apply a 65% reduction to the net amount of income they receive from the organizer entity or from the participating teams, during the holding of the event, insofar as it is directly related to their participation in the event.

- d. The customs arrangement applicable to goods that are imported for use in the holding or taking place of the event will be those stipulated generally by the Union Customs Code (and other applicable customs rules). However, goods are allowed to be placed under the temporary admission procedure for up to 10 years, under article 251.3 and article 251.4 of the Union Customs Code.
- e. For VAT purposes:

- The “reciprocity” requirement does not have to be met for refunds to traders or professionals not established in the Spanish VAT area of input VAT incurred or paid as a result of performing transactions related to the holding of the event.
- Traders or professionals not established in the Spanish VAT area who incur or pay input VAT as a result of the performance of transactions related to the event, as well as the organizer entity, the participating teams and the legal entities resident in Spain created by reason of the event by both, will be entitled to a refund of that VAT at the end of each assessment period, which will be monthly.

The returns must be filed within the first twenty calendar days of the month following the assessment period, except for the July return, which will have to be filed between August and the following first twenty calendar days of September; and the December return, which will have to be filed in the first thirty calendar days of January.

- In transactions related to goods placed under the temporary admission procedure with a full exemption from duties, the VAT exemption regime under rules on customs and tax arrangements will apply.
  - Transfers by taxable persons to Spain of items of tangible property belonging to their business that are used temporarily in the holding and taking place of the event for a period not longer than 24 months may not be treated as an intra-Community acquisition of goods.
  - Under the special effective use or enjoyment rule Spain is not regarded as the place of supply for any services that might be provided to end consumers not resident in the EU by Spanish-resident legal entities created by the organizer entity by reason of the holding and taking place of the event, or by the participating teams, as long as these services are supplied in relation to the organization, promotion or support of that event.
- f. In relation to the excise tax on certain modes of transport, registration in Spain will not be required in the case of recreational craft and water sports vessels or boats used in Spanish territory by the organizer or the participating teams during the preparation and training and holding of the event.

However, once the event is over, mandatory registration will be required after the end of 30 days from the start of their use in Spain, or 60 days where the owner transfers their principal residence to Spain, provided that the exemption for this type of transfer is applicable and the requirements set out in article 66.1 n) are fulfilled.

- g. Mortis causa acquisitions and amounts received by beneficiaries of life insurance policies will not be subject to inheritance and gift tax where the successor or recipient has taken up residence in Spain having traveled there for purposes relating to the holding of the event.

This non-taxable status will remain in force through to December 31, 2025 and may be evidenced by means of a certificate issued by the administrative body of the America's Cup.

- h. A right of private use of the public radio spectrum may be granted, on a temporary basis, to individuals or public or private entities which provide services related to the organization and holding of the event.

In addition, the reservation for private use of any frequency of the public radio spectrum in favor of any person or public or private entity for the provision of services related to the event will be exempt from payment of the charge for reservation of the public radio spectrum (or applicable equivalent).

Interested parties must file a reasoned application requesting the exemption with the competent body, stating in the applicable the period for which they are seeking the exemption and the reasons for the use of such frequencies for the purpose of events relating to the holding of the competition.

- i. With effect as from the designation of Barcelona as the host city through to December 31, 2025, the organizer entity, the owners of the necessary operation rights to hold the event, the organization and management of the event, and the entities that make up the participating teams in Spain, will be exempt from the obligation to pay the following port fees and charges:
- Occupancy fee, for private occupancy of public property at the port.
  - Usage fees, for the special use of port facilities: (a) vessel fee, (b) sports and recreational craft fee, (c) passenger fee and (d) freight fee.
  - Activity fee, for engaging in commercial, industrial and service activities.
  - Navigational aid fee for maritime signaling services.
  - Charges for port services.
  - Charge for the service consisting of the receipt of ship-generated waste.

## 9.2 Not-for-profit entities and tax incentives for patronage

### 9.2.1 Events of exceptional public interest

The following events of exceptional public interest have been determined, for the purposes of the Patronage Law (provided below are the names of the events, and the length of their support programs):

1. "*Plan de Fomento de la Ópera en la Calle del Teatro Real*" (plan for development of the Opera at Calle del Teatro Real) (from July 1, 2023 through to June 30, 2026).
2. "*Inauguración de la Galería de las Colecciones Reales*" (inauguration of the Royal Collections Gallery) (from January 1, 2023 through to December 31, 2025).
3. "*Centenario del Hockey 1923-2023*" (1923-2023 hockey centenary) (from January 1, 2023 through to December 31, 2024).

4. “60 Aniversario Rally Blendio Princesa de Asturias Ciudad de Oviedo” (60th anniversary Blendio Princess of Asturias Rally - City of Oviedo) (from January 1, 2023 through to December 31, 2023).
5. “60 aniversario del Festival Porta Ferrada” (60th anniversary of Porta Ferrada Festival) (from January 1, 2023 through to December 31, 2025).
6. “Ryder Cup 2031” (from January 1, 2023 through to December 31, 2025).
7. “Open Barcelona – Trofeo Conde de Godó” and “125 aniversario del Real Club de Tenis Barcelona” (Barcelona Open - Conde de Godó trophy and 125th anniversary Barcelona Royal Tennis Club) (from January 1, 2023 through to December 31, 2025).
8. “750 aniversario del Consolat del Mar”(750th anniversary of the Consulate of the Sea) (from January 1, 2023 through to December 31, 2025).
9. “Congreso de la Unión Internacional de Arquitectos” (International Union of Architects Congress) (from January 1, 2023 through to December 31, 2026).
10. “Festival Internacional Sónar de Música, Creativitat I Tecnologia” (Sónar Festival of Music Creativity & Technology) (from January 1, 2023 through to December 31, 2025).
11. “Programa EN PLAN BIEN” (program promoting healthy lifestyles aimed at children and adolescents) (from January 1, 2023 through to December 31, 2025).
12. “125 aniversario del Athletic Club 1898-2023” (125th anniversary of the Athletic Club, 1898-2003” (from the entry into force of this law through to December 31, 2023).

### 9.2.2 Priority patronage activities

Following suit from previous years, it contains a list of priority patronage activities and programs for the purposes of claiming the tax incentives established for them in the Patronage Law.

For these activities, as in previous years, the tax credit rates and limits set out in Law 49/2002 will be raised by five percentage points. The €50,000 limit per year and contributor for a few of the activities mentioned has not been changed.

## 9.3 Transfer and stamp tax

### 9.3.1 Titles of nobility and grandeeships

The stamp tax scale for administrative documents related to titles of nobility and grandeeships has been revised by 2%.

### 9.3.2 Real estate loans for persons with a degree of dependency

There will be an exemption from stamp tax for real estate loans provided in accordance with Law 5/2019 of March 15, 2019 regulating real estate loan agreements, available to persons officially recognized as having a degree of dependency pursuant to Law 39/2006 of

December 14, 2006 on the Promotion of Personal Autonomy and Care for persons in a situation of dependency. For that exemption to be applicable, the following requirements must be met simultaneously:

- The loan must be secured by an antichresis right in rem, the amount of which is intended primarily to fund the cost of the care of a dependent person.
- The property securing the loan must be intended for the rental market.

The deed must state the purpose of the loan and place on record the borrower's undertaking to use the funds received to meet, primarily, the costs of care at a home for the elderly or other home care costs, in addition to the undertaking to place the dwelling encumbered with the antichresis on the rental market.

The same rules will apply to the cancellation of loans secured by antichreses that meet the requirements in the preceding paragraph.

#### 9.4 Public fees

- a. Railway charges have been updated and approved for an indefinite period of time, and a temporary modification of the unit amounts of these charges has been approved for 2023. Fees for the provision and performance of railway safety services and activities have also been updated.
- b. The same basic amounts of port fees have been left unchanged. There are provisions establishing the reductions and correction multipliers applicable at public interest ports to occupancy, vessel, passenger and freight fees, as well as the correction multipliers applicable to the flat-rate fee for the receipt of waste generated by vessels, in accordance with the revised State Ports and Merchant Shipping Law (Legislative Royal Decree 2/2011 of September 5, 2011).
- c. The exemption set out in article 171.c) of the revised State Ports and Merchant Shipping Law for vessels and material pertaining to the Spanish Red Cross and humanitarian supplies sent to areas or regions in crisis or emergency situations has been extended to include legally constituted non-profit entities engaging exclusively in humanitarian work.

#### 9.5 Public Multi-Purpose Income Indicator (IPREM)

The public multi-purpose income indicator (IPREM) which is used, for example, in the personal income tax legislation (in relation to the exemption for financial support provided by public institutions to people with disabilities or people aged over 65 to fund time spent at residential homes or day centers) has been set, for 2023, at the following amounts:

- Daily public multi-purpose income indicator: €20
- Monthly public multi-purpose income indicator: €600
- Annual public multi-purpose income indicator: €7,200



It also specifies that where any reference to the minimum wage has been replaced with a reference to the public multi-purpose income indicator (as occurs in the exemption mentioned above), the annual indicator is €8,400, if the reference to the minimum wage involves the annual figure unless nonmonthly salary payments are expressly excluded; in this case, the amount is €7,200.

#### **9.6 Legal interest rate for money and late-payment interest**

In 2023, the legal rate of interest for money has been set at 3.25%, and the late-payment interest rate, at 4.0625%.