

Summer School: Personal Income Tax in the European Union

PERSONAL INCOME TAX IN SPAIN (1)

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PERSONAL INCOME TAX IN THE EUROPEAN UNION



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PERSONAL INCOME TAX IN THE EUROPEAN UNION

SUMMARY

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INCOME TAXATION IN SPAIN

NATURE

SCOPE

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TAXPAYER

TIME ELEMENTS

PERSONAL INCOME TAX IN THE EUROPEAN UNION

SPANISH PUBLIC SECTOR

PERSONAL INCOME TAX IN THE EUROPEAN UNION

General approach to Spanish Public Sector

① Public entities

- ✓ **Art. 137** Spanish Constitution: *“The State is organized territorially into municipalities, provinces and Autonomous Communities that may be constituted. All these bodies shall enjoy self-government for the management of their respective interests.”*

STATE-Central government (CG)

Autonomous Communities (RG)

LOCAL GOVERNMENTS (LG)

General finances

Regional finances

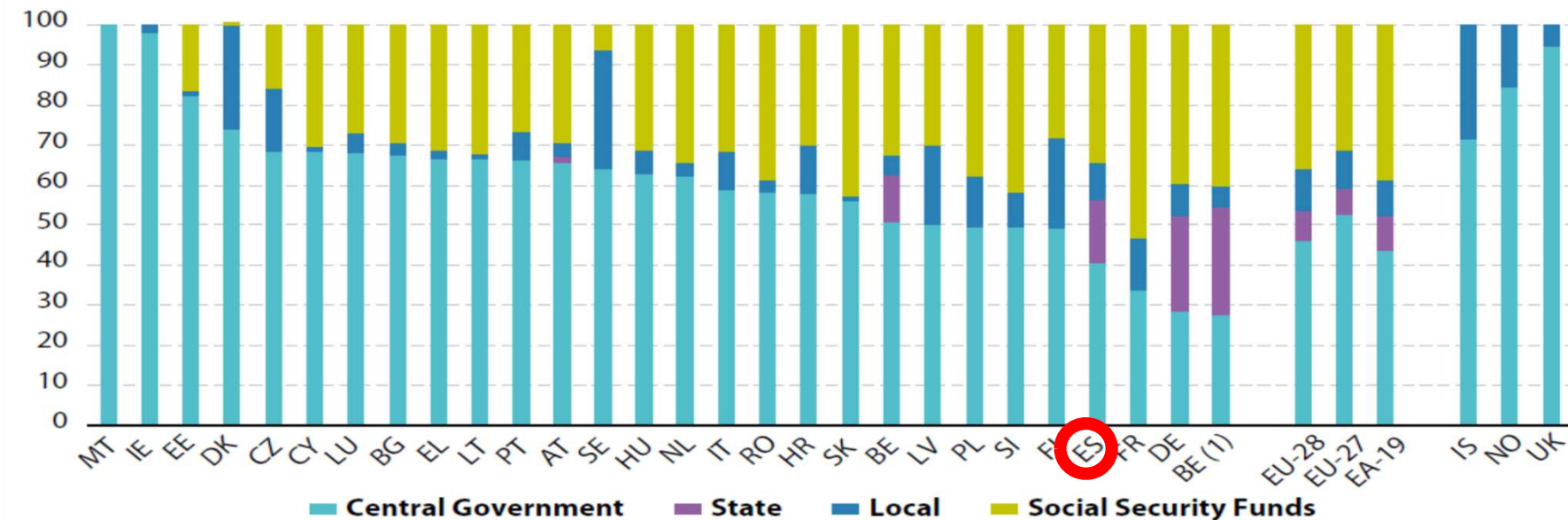
Local finances

PERSONAL INCOME TAX IN THE EUROPEAN UNION

Decentralized structure of tax revenue in Spain

Graph 4: Revenue structure by level of government, 2019

(% of total taxes)



(1) Alternative allocation of tax revenue by subsector according to 'ultimately received revenue'.

NB: In national accounts following the European system of accounts (ESA) 2010, the social security funds subsector is not distinguished for Ireland, Malta, Norway or the United Kingdom.

Source: Eurostat (online data code: gov_10a_taxag).

Spain is one of the most decentralized countries in EU

PERSONAL INCOME TAX IN THE EUROPEAN UNION

INCOME TAXATION IN SPAIN

PERSONAL INCOME TAX IN THE EUROPEAN UNION

Income taxes triple structure in Spain

**Personal
Income Tax
(PIT)**

Law n° 35/2006

**Non-residents
Income Tax**

Natural persons
and companies
without fiscal
residence in Spain

Decree
legislative
n° 4/2004

**Corporate
Income Tax**

Law n° 27/2014

PERSONAL INCOME TAX IN THE EUROPEAN UNION

Tributo	Total tax revenue.Numbers										
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
	<i>Millones de euros</i>										
PERSONAL INCOME TAX	76.956,0	68.884,8	72.082,5	75.221,1	76.066,2	75.271,4	78.131,3	78.144,3	78.439,6	83.466,0	89.613,7
CORPORATE INCOME TAX	29.412,9	21.832,7	17.373,3	17.984,0	22.768,3	21.356,4	20.077,7	21.905,3	22.897,2	24.511,0	20.500,4
NON-RESIDENTS INCOME TAX	2.461,0	2.465,9	2.704,2	2.130,9	1.746,3	1.466,3	1.434,9	1.591,3	1.964,5	2.312,8	2.698,1
Environmental taxes	-	-	-	-	-	1.617,4	1.666,0	1.914,6	1.628,4	1.867,7	1.944,2
Inheritance Gift Tax	2.915,0	2.657,2	2.408,4	2.194,0	2.287,1	2.463,4	2.680,1	2.788,0	2.691,7	2.709,1	2.682,1
Wealth Tax	2.412,5	90,4	100,7	45,8	773,6	1.363,9	1.162,1	1.176,0	1.251,9	1.322,1	1.404,9
Total Direct Taxes	114.157,2	95.930,6	94.674,0	97.580,7	104.837,2	103.542,2	105.166,5	107.550,4	108.906,4	116.220,7	124.880,5
VAT	53.185,8	37.992,3	54.626,8	54.607,3	55.569,4	57.129,0	62.061,9	66.462,7	69.075,4	71.036,6	77.194,5
Excise Duties	22.555,2	21.903,7	22.315,8	21.276,9	20.299,2	21.992,0	22.133,0	22.162,2	23.009,9	23.675,5	23.957,9
Tax on property transfer, companies operations and documented legal actions	9.936,1	7.920,5	7.594,4	6.079,2	5.360,5	5.296,9	6.062,4	6.982,9	7.346,2	8.454,5	9.310,3
Custom duties	1.566,1	1.318,5	1.521,6	1.531,2	1.429,2	1.310,6	1.525,6	1.756,7	1.856,0	1.928,2	1.906,5
Tax on Gambling activities	-	-	-	-	101,2	74,5	83,8	59,0	77,8	60,9	58,1
Insurance Tax	1.599,0	1.497,6	1.530,9	1.516,5	1.472,1	1.417,6	1.407,0	1.446,5	1.470,6	1.545,5	1.604,7
Total Indirect Taxes	90.174,9	71.875,8	88.866,3	86.335,7	85.738,2	87.681,4	93.314,1	98.966,3	102.928,3	106.818,7	114.133,9
Tasas sobre el juego	1.830,6	1.670,9	1.610,1	1.317,1	1.266,7	1.111,8	1.062,7	1.058,5	1.086,3	1.092,2	1.130,2
Canon de aguas	-	-	-	-	-	-	-	453,4	202,4	196,9	110,5
Tasa por reserva del dominio público radioeléctrico	321,9	315,7	64,7	43,2	-3,7	54,0	57,8	52,9	16,0	10,1	11,8
Tasa por el ejercicio de la potestad jurisdiccional	113,4	184,7	172,3	164,4	171,7	316,5	297,4	206,3	117,4	38,1	37,3
Tasa por dirección e inspección de obras	195,5	206,7	179,9	129,5	107,8	85,4	50,7	61,7	24,6	31,8	39,1
Tasas por expedición del DNI y pasaportes	74,9	87,8	94,7	108,5	97,4	95,8	96,4	97,3	97,5	111,7	118,4
Tasas consulares	61,4	63,1	58,6	64,1	82,1	97,1	103,5	108,6	96,8	89,0	92,8
Tasas por reconocimientos, autorizaciones y concursos	55,9	66,7	71,7	62,5	54,7	47,5	45,7	49,6	51,0	50,0	48,2
Canon ocup. y aprov. dom. púb. marítimo-terrestre	21,1	20,2	22,5	25,3	33,2	34,9	31,0	40,8	49,7	45,2	45,3
Otras tasas	159,5	98,8	83,7	77,0	81,7	75,5	105,7	158,0	168,9	184,6	161,8
Otros ingresos	808,5	903,6	1.099,8	1.324,3	1.227,5	1.336,3	1.423,0	1.398,3	1.565,5	1.300,0	1.387,1
Total Publics fees and others	3.642,7	3.618,1	3.458,0	3.315,9	3.119,1	3.254,8	3.273,9	3.685,4	3.476,2	3.149,7	3.182,4
TOTAL TAX REVENUE	207.974,8	171.424,5	186.998,3	187.232,3	193.694,6	194.478,4	201.754,6	210.202,1	215.310,9	226.189,0	242.196,8

PERSONAL INCOME TAX IN THE EUROPEAN UNION

Number of annual PIT declarations Evolution 2013-2017

Ejercicio	Número de declaraciones	% Tasa de variación
2013	19.203.136	-0,9
2014	19.359.020	0,8
2015	19.480.560	0,6
2016	19.621.728	0,7
2017 (*)	19.913.239	1,5

PERSONAL INCOME TAX IN THE EUROPEAN UNION

PIT as a structural pillar of tax system: Constitutional Court Sentence 182/1997

- It is one of the structural pillars of our tax system and, due to its characteristics (...), any alteration in its essential elements immediately affects the amount or the way in which the tax burden must be spread by the generality of taxpayers.
- At the same time, it is above all through PIT that the personalization of the distribution of the tax burden in the tax system is carried out according to the criteria of economic capacity, equality and progressively, which makes it a primary tax figure to ensure that our tax system complies with the principles of tax justice imposed by article 31.1 Spanish Constitution, given its structure and its taxable event.

PERSONAL INCOME TAX IN THE EUROPEAN UNION

PIT as a structural pillar of tax system: Constitutional Court Sentence 182/1997

PIT, due to its general and personal nature, and the central figure of direct taxation, is one of the basic pieces of our tax system. It is undoubtedly a tribute in which the principle of economic capacity and its correlate, that of tax equality and progressivity, find a more complete projection, so that it is, perhaps, the most suitable instrument to achieve the objectives of income redistribution (art. 131.1 Spanish Constitution) and solidarity (art. 138.1 Spanish Constitution) that the Spanish Constitution advocates and that give content to the social and democratic State of Law (art. 1.1 Spanish Constitution).

PERSONAL INCOME TAX IN THE EUROPEAN UNION

LEGISLATION

PERSONAL INCOME TAX IN THE EUROPEAN UNION

Basic regulation
of Spanish
PIT can be found:

Ley 35/2006,
de 28 de noviembre



LIRPF

Reglamento del impuesto
aprobado por Real Decreto
439/2007, de 30 de marzo



RIRPF

PERSONAL INCOME TAX IN THE EUROPEAN UNION

NATURE

NATURE, OBJECT AND SCOPE OF APPLICATION

NATURE
ART. 1. PIT. LAW

- 1 **DIRECT**
- 2 **PERSONAL** → natural persons
- 3 **SUBJECTIVE** → personal & familiar circumstances
- 4 **PROGRESSIVE** → from 19% to 45%
- 5 **PERIODIC** → January 1 to December 31.



NATURE, OBJECT AND SCOPE OF APPLICATION

6 STATE TAX but PARTIALLY assigned to REGIONS

NATURE
ART. 1. PIT. LAW



→ The tax collection is shared in 50% with regions.

→ Regions can modify some elements of PIT (Scale, deductions, individual & family minimum, etc.)



NATURE, OBJECT AND SCOPE OF APPLICATION

NATURE

ART. 1. PIT. LAW

Example:

According to the PIT Law, the Personal Income Tax has among other characteristics:

- a) Direct, Periodic and the regions cannot modify any element of the tax;
- b) Direct, Personal, Progressive and the State receives 100% of the collection;
- c) Direct, Personal, Subjective, Progressive and the collection is 50% shared with the regions;
- d) None of the above are correct.

c) Direct, Personal, Subjective, Progressive and the collection is 50% shared with the regions.



PERSONAL INCOME TAX IN THE EUROPEAN UNION

SCOPE

NATURE, OBJECT AND SCOPE OF APPLICATION

SCOPE

ARTS. 4 & 5 PIT. LAW

Scope of application:

a) The IPT is required in the whole Spanish territory.

b) Specialities:

→ Navarra & Basque Country have their own PIT.

→ A few differences in Canary Islands, Ceuta & Melilla.



c) Important limitations from Double Tax Conventions.

→ When the income is obtained abroad / in Spain with an international element, the DTC (Double Taxation Convention) may determine where it will be taxed and to what extent.



NATURE, OBJECT AND SCOPE OF APPLICATION

SCOPE

ARTS. 4 & 5 PIT. LAW

Example:

Indicate which of the following statements is correct:

- a) Personal income tax is applied throughout the Spanish territory with the same regulation;
- b) Personal income tax is applied throughout the Spanish territory with the same regulation except in the Basque country;
- c) There is more than one PIT Law in Spanish territory;
- d) None of the above are correct.

c) There is more than one PIT Law in Spanish territory.



PERSONAL INCOME TAX IN THE EUROPEAN UNION

TAXABLE EVENT

PERSONAL INCOME TAX IN THE EUROPEAN UNION

TAXABLE EVENT

MATERIAL ELEMENT

WHAT?

PERSONAL ELEMENT

WHO?

TEMPORARY ELEMENT

WHEN?

TAXABLE EVENT

① Taxable event definition (art. 6.1 PIT Law): Income obtain by taxpayer along the tax year.

② Categories of income (art. 6.2 PIT Law):



① Labour income



② Capital income: **Immovable capital/movable capital**



③ Business Income



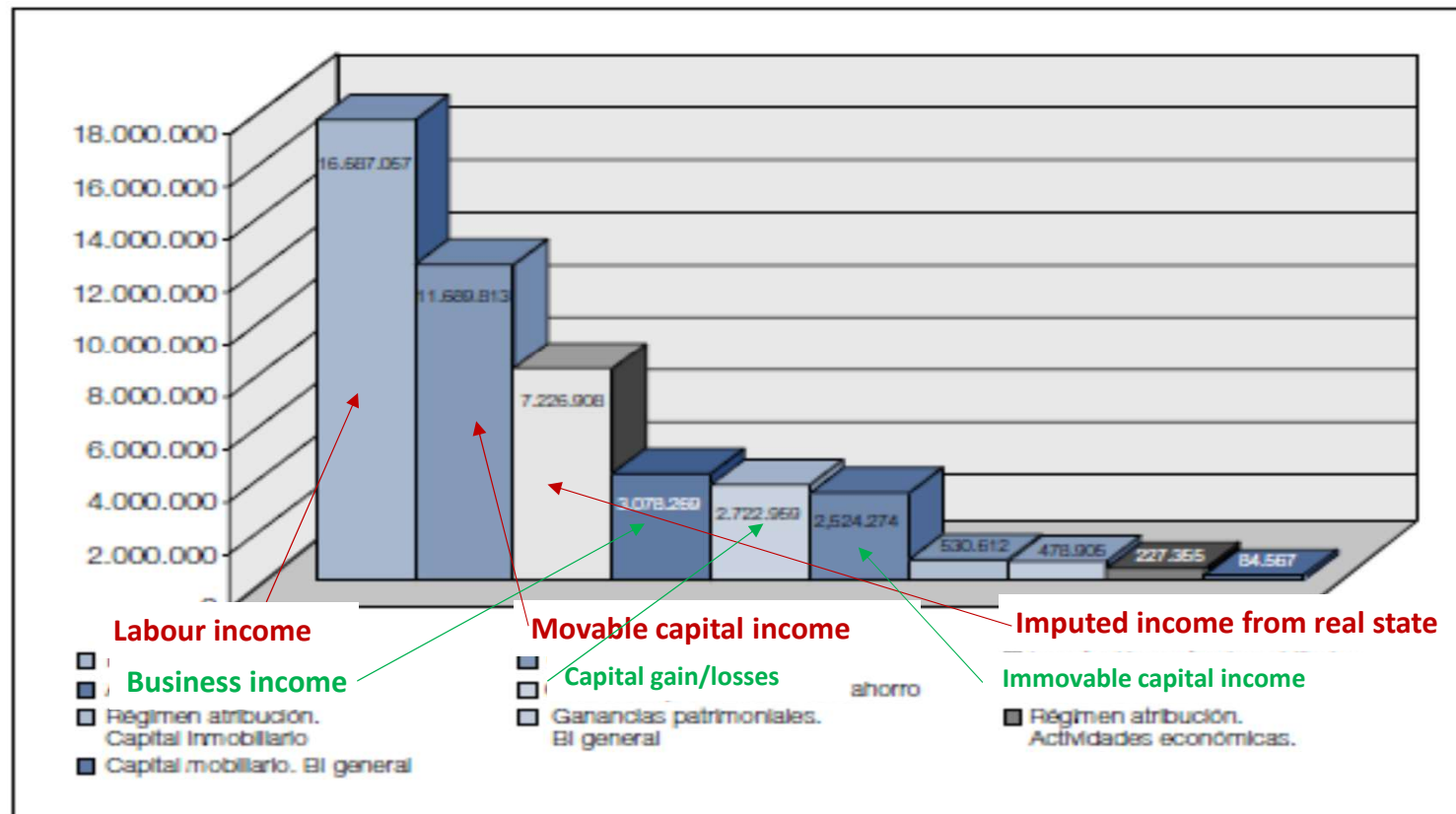
④ Capital gains and losses



⑤ Imputed income

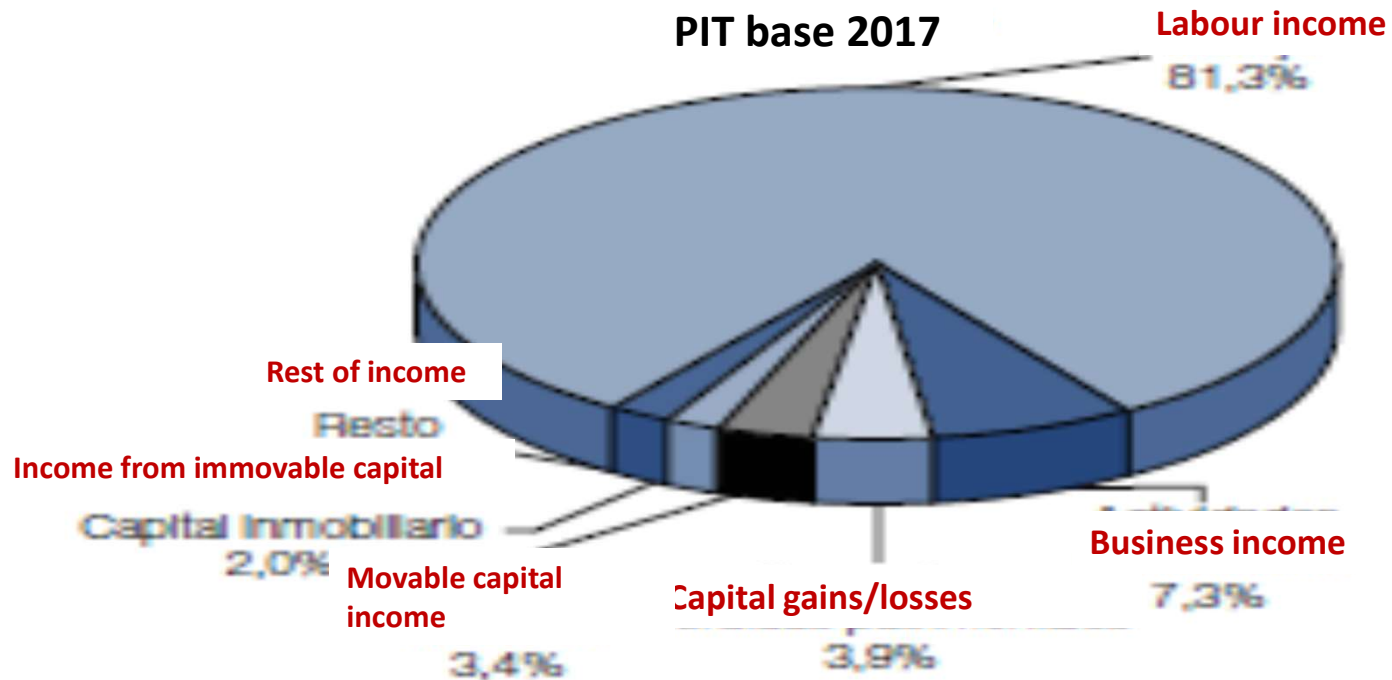
PERSONAL INCOME TAX IN THE EUROPEAN UNION

Number of annual PIT declarations:
Categories of income 2017



PERSONAL INCOME TAX IN THE EUROPEAN UNION

PIT tax base composition by income categories



TAXABLE EVENT

③ Distinction between General income and Savings income. **Art. 6.3 PIT Law:**

- Income is separated in two categories: **General & Savings.**
- It is relevant to calculate tax base & tax payable.

GENERAL INCOME

Progressive scale of tax
(19-45%)

- Labour Income
- Inmovable Capital
- Bussines Income
- Imputed Income

SAVINGS INCOME

Lower scale of tax
(19-26%)

- Movable Capital
- Capital Gains and losses.

TAXABLE EVENT



④ Non-subjection situations. Art. 6.4 PIT Law

PIT law specifies that income subject to Inheritance and Gift Tax is not subject to PIT:

- Wealth increase from free mortis causa (inheritance) or inter vivos (donations) transfers is not subject to PIT.

⑤ Exempt income:

- Since taxable event of PIT is very wide, there are many exemption situations that will not be included in the taxable base of the taxpayer, e.g.

➤ Lottery and State gambling (< 40,000 €):

State Lotteries (LAE), Red Cross and ONCE.



TAXABLE EVENT

➤ **Some Social security aids:**

Permanent total disability and full permanent disability or severe disability.

➤ **Literature, artistic or scientific relevant prizes.**

The grantor of the prize may **not** be **interested** in the economic **exploitation** of the work.

➤ **Public grants for official studies**

➤ **Severance payment up to legal limit**

Compensation for dismissal of the employees up to the limit set by the **workers' statute** (Estatuto de los Trabajadores).

➤ **Accident indemnities**

Amount recognized by court ruling.

➤ **Alimony as child support (only for children, not other relatives)**

TAXABLE EVENT

Taxable Event

ART. 7. PIT. LAW



Example:

Mr. Triviani is an actor who has been fired by a known film's producer. In accordance with the provisions of the workers' statute (Estatuto de los Trabajadores), Mr. Triviani would receive 100.000 € of severance pay. To avoid a scandal in the press, the producer pays 120,000 € in settlement. Mr. Triviani:

- a) Must incorporate 120.000 € as labour income.
- b) Should not declare any amount for exemption from severance pay.
- c) Must declare 20.000 € as labour income in his PIT.
- d) None of the above are correct.

c) Must declare 20.000 € as labour income in his PIT.

120.000

- only is exempt up to the limit set by worker's statute: 100.000 € are exempt.
- Must declare 20.000 € as labour income in his PIT.

TAXABLE EVENT

TAXABLE EVENT

ART. 7. PIT. LAW



Example:

Mr. Martos has two children and is divorced from Mrs. Fuentes since 2019. During 2022 he has received a compensatory pension of 200 € per month from his ex-wife. Mrs. Fuentes also pays a monthly pension of 400 € to each child. Both benefits have been recognized by Court Judgment. In the Personal Income Tax for fiscal year 2022:

- a) Mr. Martos must declare a labour income of 2.400 € while the children must declare a labour income of 4.800 € each.
- b) Only Mr. Martos must declare a labour income of 2.400 €.
- c) Only the children must declare a labour income of 4.800 € each.
- d) None of the above answers is correct.

b) Only Mr. Martos must declare a labour income of 2.400 €.

PERSONAL INCOME TAX IN THE EUROPEAN UNION

TAXPAYER

TAXPAYER

**Natural persons
taxpayers of
Spanish PIT**

**Residents in
Spanish territory**

**Spaniards in
«Fiscal Quarantine»**

**Certain Spaniards
with residence
abroad for
public office**

TAXPAYER

① Natural persons with habitual residence in Spanish territory [(art. 8.1.a) and 9 LIRPF]

- When do we considered that a natural person has his habitual residence in Spanish territory?

Any of this criteria:

a) Permanence of the taxpayer more than 183 days during the calendar year in Spanish territory.

(sporadic absences will be considered period of stay, except when the taxpayer prove having the fiscal residence in another State).

b) Location in Spain (either directly or indirectly) of the core or base of the activities or economic interests of the taxpayer.

Important presumption to ease the application (iuris tantum):

A person is resident in Spain when, in accordance with the above criteria, its non-separated spouse and its underage children are habitual residents in Spain.

TAXPAYER

TAXPAYER

ARTS. 8 & 9 PIT. LAW



Example:

Mrs. Fuentes is a well-known tennis player. Her usual home is located in Barcelona (Spain). However, she constantly travels around the world to participate in international tournaments. During this year she has been absent from his home for 50 days in France; 40 days in Italy; 90 days in the US; and 30 days in the United Kingdom. The rest of the time has stayed in Barcelona (Spain). In accordance with the provisions of Spanish PIT, Where is this taxpayer considered to reside for income tax purposes?:

- a) In the USA.
- b) In Spain.
- c) In any country in the world because in none of them she stayed more than 183 days
- d) In France, since it is the European Union country in which she stayed longer.

b) In Spain.

Because she has been 365 days in Spain: 210 as sporadic absences + 155 in Barcelona (Spain).

Sporadic absences are considered period of stay by the PIT Law.

TAXPAYER

TAXPAYER

ARTS. 8 & 9 PIT. LAW



Example:

Mr. Cunha is an entrepreneur who produces and distributes furniture and resides in Porto (Portugal). He has established in Huelva (Spain) this business activity from which more than 50% of his income comes. In accordance with the provisions of Spanish PIT, with _____ such _____ data:

- a) Mr. Cunha will be considered taxpayer in Spain.
- b) Mr. Cunha isn't considered a PIT resident in Spain since he does not stay in Spain for more than 183 days.
- c) Mr. Cunha will be a taxpayer in Portugal in accordance with arts. 8 and 9 PIT Law.
- d) None of the above answers is correct.

b) Mr. Cunha will be considered taxpayer in Spain according to articles 8 & 9 PIT Law because the economic interests of the taxpayer are in Spanish territory.

TAXPAYER

TAXPAYER

ARTS. 8 & 9 PIT. LAW

Example:

Mr. Mateos, is a Spanish emigrant who resides in Germany and works in the Iberia's airlines delegation in Berlin. After many years, his wife and children have returned to Spain on March 1, 2022. Mr. Mateos will return on December 23, 2022. For the purposes of 2022 Personal Income Tax and according to PIT Law, Mr. Mateos:

- a) Will be a PIT taxpayer in Spain in any case.
- b) It is presumed that he resides in Spain (because his wife and minor children have lived here since March 1), however he can prove his residence in Germany.
- d) It is presumed by the Spanish PIT Law that he resides in Germany.
- d) None of above are correct.



- b) It is presumed that he resides in Spain (because his wife and minor children have lived here since March 1), however he can prove his residence in Germany.

TAXPAYER

2 Natural persons (spaniards) in «fiscal quarantine» (art. 8.2 LIRPF)

Spaniards that move their residence to a country or territory classified as «tax heaven» in Spain

→ Will continue to be considered taxpayers of Spanish PIT for this year and 4 more.

3 Natural persons (spaniards) with habitual residence abroad for public office (art. 10 LIRPF)

Spanish nationals (also its spouse and underage children) living abroad because of:

- Members of Spanish diplomatic missions.
- Members of delegations and permanent representations before Int. Org.
- Peace missions

<https://www.youtube.com/watch?v=9RXT3pA-yqU>

TAXPAYER

TAXPAYER

ART.S 8 & 9 PIT LAW



Example:

Mr. Pérez, who holds Spanish nationality and resides in Cádiz (Spain), has started his career as a professional polo player. In view of the significant profits he was going to obtain, in January 2019 he established his residence in Bahamas (tax heaven). For the purposes of Personal Income Tax, Mr. Pérez:

- a) He is considered a PIT taxpayer in Bahamas from 2019.
- b) He is only considered a PIT taxpayer in Spain in 2019.
- c) He is considered a taxpayer in Spain from 2019 to 2022.
- d) He is considered a PIT taxpayer in Spain from 2019 to 2023.

d) He is considered a PIT taxpayer in Spain from 2019 to 2020.

Fiscal quarantine situation. He will be considered taxpayer of Spanish PIT for the year he moves his residence (2019) and 4 more = **from 2019 to 2023.**

PERSONAL INCOME TAX IN THE EUROPEAN UNION

Lionel Messi tax fraud prison sentence reduced to fine

7 July 2017



EPA

Lionel Messi will pay €400 for every day of the 21-month sentence

Ronaldo fined €18.8m over tax evasion

22 January 2019



Football superstar Cristiano Ronaldo was all smiles as he arrived at court



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PERSONAL INCOME TAX IN THE EUROPEAN UNION

https://www.youtube.com/watch?v=fOc_dxAI5YY



PERSONAL INCOME TAX IN THE EUROPEAN UNION

TIME ELEMENTS

TIME ELEMENTS

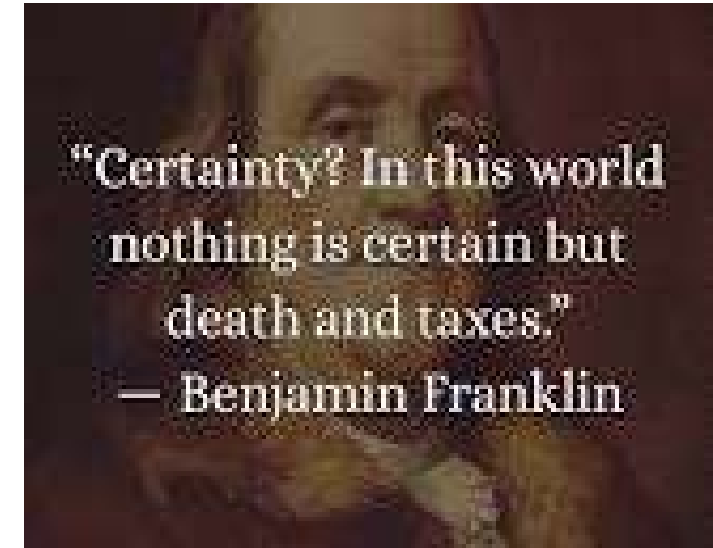
Time elements: chargeable event & tax period

① General rule

- Tax period is the calendar year (1st January – 31st December).
- Chargeable event is the 31st of December.

② Special rules

- Tax period is shorter when the taxpayer deceases
- Chargeable event is the day of the deceased.



In both situations
The enforceability and the payment
are later (May-June of the following year)

PERSONAL INCOME TAX IN SPAIN (1)

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