

# INDIVIDUAL INCOME TAX - IRPF

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# I N D E X

1. Introduction
2. Taxable persons.
3. Tax period.
4. Taxable income. Exempt income
  - a) Employment income
  - b) Income from immovable capital
  - c) Income from movable capital (investment income)
  - d) Business and professional income
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5. Tax base. Reductions in the tax base. Assessable base.
6. Personal and family allowances
7. Rates. Tax debt
8. Family taxation. Administration
9. Gains arising from certain prizes

# 1. INTRODUCTION (1/2)

- ❑ Statutory framework?
  - The Individual Income Tax Law was passed on 28 November 2006: **Law 35/2006**
- ❑ **Direct** tax with **individual nature**
  - Individuals who are **residents** of Spain are liable to individual income tax (IRPF) in respect of their **worldwide** income and capital gains
- ❑ **Periodic** tax → accrual date on 31 December
- ❑ **Progressive** tax → > tax rate > income
- ❑ Tax with **subjective nature** → individual and family circumstances are taken into account

# 1. INTRODUCTION (2/2)

- ❑ IRPF is partially assigned to regions belonging to the common system
  - Partial assignment related to IRPF collection → income generated in the territory of the Autonomous Community: **50% limit**
  - Certain normative competences regarding personal reliefs (e.g. personal and family allowances) and regarding tax rates
- ❑ Scope of application? **The whole territory of Spain**, however:
  - Navarre and Basque Country → their own legislation in personal income tax
  - Canary Islands as well as the enclaves of Ceuta and Melilla → Law 36/2006 with particularities
  - Regions belonging to the common system: “specialities”

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## 2. TAXABLE PERSONS (1/2)

- Individual who is **resident** of Spain (art. 9 Law 35/2006)
  - Habitual abode, meaning?
  - Persons are considered to be residents of Spain for tax purposes when:
    - 1) Their stay in Spain exceeds **183 days** (whether or not consecutively) in a calendar year
    - 2) Their **main centre of business or professional activities/economic interests** are in Spain
    - 3) Their **(non-legally separated) spouse and minor dependent children** have their residence in Spain (*iuris tantum* presumption – taxpayer can prove the opposite)

## 2. TAXABLE PERSONS (2/2)

### □ Also habitual abode in Spain:

- 1) Spanish nationals, their (non-legally separated) spouse and minor children who are residents outside Spain because of **public employment** (e.g. embassy)
- 2) Spanish nationals who move their residence to a country deemed to be a **tax haven** remain taxable on their worldwide income in the year of emigration and for the 4 subsequent years

### □ Special treatment: EU/EEA residents

- Individuals who are residents of a Member State of the EU/EEA may opt to be subject to IRPF when certain circumstances are met: art. 46 of the LIRNR

### □ Finally, individuals who move to Spain to work there may elect to be taxed under IRPF rules or IRNR rules for the tax year in which they move to Spain and for the following 5 tax years – “expatriate employees”

Moreover, cases where the individual is subject to tax on income derived from entities which are not taxed under corporate income tax (IS) rules → **“régimen atribución rentas”**

**Income derived from:**

- Civil society not taxed under IS
- Inheritance (*“herencias yacentes”*), community of goods and entities under art. 35.4 of the LGT.

**Are attributed to:**

- Partners, heirs, etc.



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# 3. TAX PERIOD

- ❑ **Tax period** = calendar year (365 days)
  - Tax period is less than 1 year for a taxpayer who has died before 31 December of that year
- ❑ **Accrual date** on 31 December
- ❑ **General rule:** income is taxable in the accrual year and related expenses are deductible in the year in which they were incurred, regardless of when receipt and payment occur.

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# 4. TAXABLE INCOME: TAX EVENT AND THE CONCEPT OF INCOME

- ❑ Tax event? The receipt of income by individuals
- ❑ The concept of income (*renta*) encompasses income from 6 basic categories according to the source or origin:
  - 1) Employment income
  - 2) Income from immovable capital
  - 3) Income from movable capital
  - 4) Business and professional income
  - 5) Capital gains
  - 6) Imputed income

# 4. TAXABLE INCOME: GENERAL INCOME AND SAVINGS INCOME

- General income (art. 45 of the LIRPF): the aggregate of employment income, income from immovable capital, business and professional income, income from movable capital under art. 25(4) of the LIRPF, imputed income and positive or negative capital gains which are not deemed to be savings income
  - General tax base
- Savings income (art. 46 of the LIRPF): income from movable capital (dividends, interest and monetary return or payment in kind on life or disability insurance contracts) and positive or negative capital gains that arise on transfer of assets
  - Savings tax base

GENERAL INCOME (art. 45 of the LIRPF)	SAVINGS INCOME (art. 46 of the LIRPF)
<b><i>Employment income</i></b>	--
<b><i>Income from immovable capital</i></b>	--
<b><i>Income from movable capital:</i></b> (art. 25(4) of the LIRPF)	<b><i>Income from movable capital:</i></b> (art. 25(1), (2) and (3) of the LIRPF)
<ul style="list-style-type: none"> <li>Income arising from intellectual property, technical assistance, image rights, etc.</li> </ul>	<ul style="list-style-type: none"> <li><i>Dividends</i></li> <li><i>Interest</i></li> <li><i>Monetary return or payment in kind on life or disability insurance contracts</i></li> </ul>
<b><i>Business and professional income</i></b>	--
<b><i>Imputed income</i></b> <i>e.g. immovable property (other than a permanent dwelling), CFC regime, transfer of the right to a person's image, etc.</i>	--
<b><i>Positive and negative capital gains <u>that are not</u> related to the transfer of assets</i></b>	<b><i>Positive and negative capital gains arising from the transfer of assets</i></b>

# 4. TAXABLE INCOME: EXEMPT INCOME

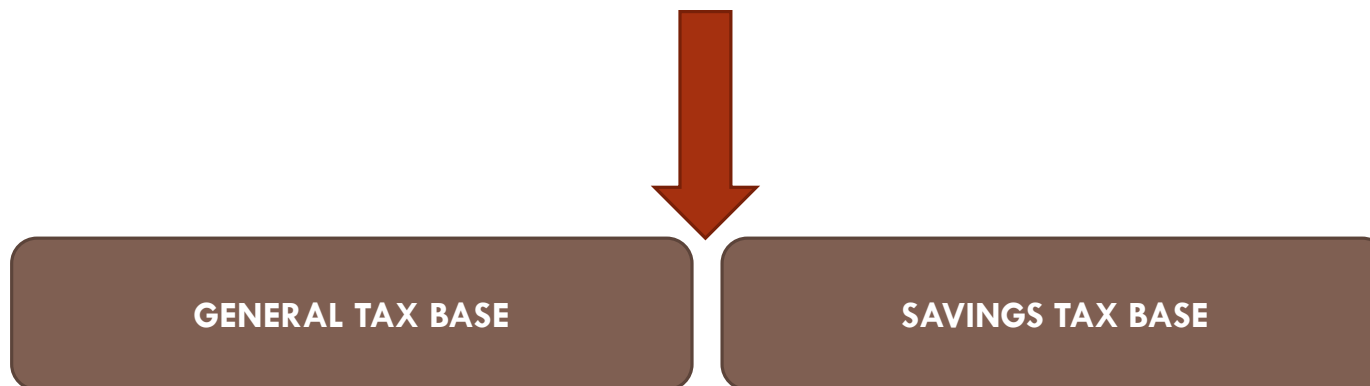
## □ Art. 7 of the LIRPF

- Several types of social distribution and public compensations
- Indemnities for physical or mental injuries in the statutory amount or under a court order or an insurance contract
- Income obtained from qualifying long-term savings plans
- Public grants awarded granted for any level of education (including a doctorate)
- Scholarships granted by banking foundations for nondiscretionary studies, both in Spain and abroad, at all levels of the educational system
- Etc.

# 4. TAXABLE INCOME: HOW TO DETERMINE INCOME SUBJECT TO TAX?

□ Tax base is composed of **individual income – 6 categories**

1. Characterisation and quantification of income according to its source or origin
2. Application of allowances/reductions
3. Integration and offsetting of different items of income (according to their source or origin) + classification as general or savings income





## 4.1. TAXABLE INCOME: EMPLOYMENT INCOME

NET EMPLOYMENT INCOME (to be integrated in the general tax base)	
Gross employment income	(+) Monetary remuneration (+) Benefits in kind (-) Non-periodical income
Net employment income	Gross employment income (-) Deduction of expenses
Net (and reduced) employment income	Net employment income (-) Employment allowance/reduction

# 4.1. TAXABLE INCOME: EMPLOYMENT INCOME

NET EMPLOYMENT INCOME (to be integrated in the general tax base)	
Gross employment income	(+) Monetary remuneration (+) Benefits in kind (-) Non-periodical income

**Concept?** Income from employment comprises any emoluments, consideration or benefits in cash or in kind which arise directly or indirectly from the rendering of dependent services by the taxpayer and which do not constitute business or professional income, e.g. public servants, employees, pensioners in general, directors, managers, etc. (art. 17 of the LIRPF)

- A. Salary**
- B. Pension income**
- C. Other employment income**

# 4.1. TAXABLE INCOME: EMPLOYMENT INCOME

## □ Salary

- Salaries, wages and complementary amounts
- Unemployment benefits
- Remuneration for representation expenses
- Employer's contribution to the employees' private pension plan or alternative schemes applied to the employees or their beneficiaries
- Allowances for travel expenses (including any allowances for travel between home and work, even if the travel is between two different municipalities)
  - However, the following are not subject to IRPF:

Travel expenses	Daily subsistence expenses				
Public transport: duly substantiated expenses	Hotel	Meal allowances			
Private transport: €0.19 per km + duly substantiated expenses, e.g. toll or car park expenses	Duly substantiated expenses	Night		Night	
		Spain	Abroad	Spain	Abroad
		€53.34	€91.35	€26.67	€48.08

# 4.1. TAXABLE INCOME: EMPLOYMENT INCOME

## □ Pension income

- The concept of pension comprises pensions and “passive” benefits paid by the social security fund, workers’ mutual insurance societies and funds and private enterprises and any State subsidies

# 4.1. TAXABLE INCOME: EMPLOYMENT INCOME

## □ Other employment income

- Remuneration derived from the creation of literary, artistic or scientific works (taxpayer = author) as long as the exploitation rights have been assigned to a third party.
- Remuneration derived from courses, conferences or seminars.
- Scholarships

# 4.1. TAXABLE INCOME: EMPLOYMENT INCOME

NET EMPLOYMENT INCOME (to be integrated in the general tax base)	
Gross employment income	(+) Monetary remuneration (+) Benefits in kind (-) Non-periodical income

**Benefits in kind** comprise the use, appropriation or receipt for private purposes of goods, rights or services either free of charge or at below market prices, even where there is no actual charge to the employer or supplier (art. 42 of the LIRPF), e.g. fee (or subsidized) housing/telephone

Exemptions → art. 42(3) of the LIRPF, e.g. supply or low-price products in cooperative stores or canteens with a maximum of €9 per day

**Value?** Market price (general rule)

Specific rule: art. 43 of the LIRPF, e.g. private use of a company car

*Se suma a la cuantía resultante de estas reglas, el **importe del ingreso a cuenta** que el empresario debe realizar sobre el valor de las rentas no dinerarias sometidas a este mecanismo, salvo repercusión al perceptor rentas*

Value of benefits in kind	
Use of residential accommodation	Owned by the employer: 10% cadastral value (5% for cadastral values fixed after 1 January 1994/updated cadastral values) Rent amount when the employer is not the owner
Use of a private automobile	Owned by the employer: 20% of the acquisition cost Other cases: 20% of the market price
The interest on loans below the legal rate	The difference between the interest actually charged and the prevailing legal interest rate
Supply of a private automobile	Acquisition cost of the car
Travel allowances	Cost to the employer
Insurances	
Study and subsistence allowance	
Contributions paid by the employer	Amounts paid
Other benefits in kind	Market price

# 4.1. TAXABLE INCOME: EMPLOYMENT INCOME

NET EMPLOYMENT INCOME (to be integrated in the general tax base)	
Gross employment income	(+) Monetary remuneration (+) Benefits in kind (-) Non-periodical income

## Non-periodical income

General rule: employment income is **fully taxable**. However, exception:

- Non-periodical income or income generated over more than 2 years: 30% reduction, limited to €300,000
- Lump-sum pensions if the first contribution to the pension fund was made at least 2 years before: 30% reduction



# 4.1. TAXABLE INCOME: EMPLOYMENT INCOME

NET EMPLOYMENT INCOME (to be integrated in the general tax base)	
Net employment income	Gross employment income (-) Deduction of expenses

## Deduction of expenses (art. 19 of the LIRPF)

- Compulsory contributions paid to the social security system
- Fees paid to trade unions or to professional associations as a pre-requisite for practising a profession up to €500 per year
- Legal expenditure incurred in connection with labour cases up to an annual maximum of €300
- Other expenses different from the above up to **€2,000 a year**, which may be increased:
  - When a change of residence takes place in cases where a job is accepted in another municipality (unemployed): €2,000 a year (during two tax periods)
  - In the case of serving employees with disabilities: €3,500€ a year. Employees who need assistance or with reduced mobility or with 65% disability: €7,750€ a year.

# 4.1. TAXABLE INCOME: EMPLOYMENT INCOME

NET EMPLOYMENT INCOME (to be integrated in the general tax base)	
Net (and reduced) employment income	Net employment income (-) Employment allowance/reduction

**Allowance** (reduction for salary income) applied to net employment income **below €14,450 a year**, insofar as the taxpayer does not obtain income, excluding exempt income, other than salary income above €6,500

The allowance amounts are:

- For taxpayers with net employment income up to €11,250: €3,700 allowance
- For taxpayers with net employment income over €11,250 and up to €14,450€: the result of the following formula:  $€3,700 - [1.15625 \times (\text{net employment income} - €11,250)]$

## 4.2. TAXABLE INCOME: INCOME FROM IMMOVABLE CAPITAL

□ **Concept?** Income from capital (movable/immovable) comprises any returns or consideration arising directly or indirectly from assets, property or rights which are held by the taxpayer and which are not part of the taxpayer's business or professional activity

(Income from the transfer of assets, property or rights → capital gains/losses)

□ **Classification:**

- Income from (urban and rural) immovable capital: art. 22 of the LIRPF
- Income from movable capital (investment income): art. 25 of the LIRPF

## 4.2. TAXABLE INCOME: INCOME FROM IMMOVABLE CAPITAL

### NET INCOME FROM IMMOVABLE CAPITAL (to be integrated in the general tax base)

Gross income from immovable capital	(+) Monetary remuneration (+) Benefits in kind (legal value + payments on account)
Net income from immovable capital	Gross income from immovable capital (-) Deduction of expenses
Net (and reduced) income from immovable capital	Net income from immovable capital (-) Income from rental of dwellings is reduced by 60% (-) Income generated over more than 2 years is reduced by 30%

## 4.2. TAXABLE INCOME: INCOME FROM IMMOVABLE CAPITAL

### NET INCOME FROM IMMOVABLE CAPITAL (to be integrated in the general tax base)

Gross income from immovable capital

(+) Monetary remuneration

(+) Benefits in kind

(legal value + *ingreso cuenta no repercutido*)

- ❑ **Concept?** Income from immovable capital includes actual (also imputed) rent from real estate (except the taxpayer's permanent home)
- ❑ **Amount?** For leased or subleased urban and rural immovable property, the actual amounts received by the landlord from the lessee or sub-lessee must be included in the owner's taxable income – certain deductions/reductions are available
- ❑ If the lessee is a relative up to the third degree of the lessor, the income cannot be lower than 2% of the cadastral value of the rented property (or 1.1% if the value has been updated) → *regla imperativa de valoración mínima*

## 4.2. TAXABLE INCOME: INCOME FROM IMMOVABLE CAPITAL

### NET INCOME FROM IMMOVABLE CAPITAL (to be integrated in the general tax base)

Net income from immovable capital

Gross income from immovable capital  
(-) Deduction of expenses

- ❑ **Deduction of expenses?** When computing net income from immovable capital, the taxpayer **may deduct**, in respect of income arising from the leased or subleased immovable property, **all relevant expenses** related to the income, including a fixed depreciation allowance of 3% of the value attributed to the building excluding the related land
  - Value attributed to the immovable property? Cadastral value or acquisition cost (the highest)
- ❑ **Art. 23(1) (a) of the LIRPF and art. 13 of the RIRPF:** list of deductible expenses
  - Maintenance and repair expenses (limit\*)
  - Mortgage interest and any other financial expense relating to the purchase or improvement of the property (limit\*)
  - Local taxes and charges
  - General expenses

## 4.2. TAXABLE INCOME: INCOME FROM IMMOVABLE CAPITAL

### NET INCOME FROM IMMOVABLE CAPITAL (to be integrated in the general tax base)

Net (and reduced) income from immovable capital	Net income from immovable capital (-) Income from rental of dwellings is reduced by 60% (-) Income generated over more than 2 years is reduced by 30%
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□ **Net (and reduced) income from immovable property:** Net income from immovable capital is reduced by:

- A **60% allowance** in the case of income from renting out the property
  - e.g. the lessee (or sub-lessee) is using the immovable property as his/her home. Properties rented out for tourist purposes?
- A **30% allowance** related to non-periodical income or income generated over more than 2 years (limit: €300,000)
  - e.g. Income received by the landlord from the lessee or sub-lessee when the building suffers damage

## 4.2. TAXABLE INCOME: INCOME FROM IMMOVABLE CAPITAL

- ❑ **Imputed income:** The amount of gross income imputed to any unrented urban buildings (excluding the taxpayer's permanent home)
- ❑ **Which kind of immovable property?** Urban immovable property which is not part of the taxpayer's business or professional activity + Rural immovable property when it is neither required for the development of farming activities nor related to economic activities
- ❑ **Exceptions:** permanent home of the taxpayer; immovable property during the building process; immovable property which cannot be used for urban reasons; land not built on.
- ❑ **Computation?** 2% of the cadastral value of the rented property (or 1.1% if the value has been updated)
  - General tax base – with no possibility to be reduced or to apply deductions



# 4.3. TAXABLE INCOME: INCOME FROM MOVABLE CAPITAL

INCOME FROM MOVABLE CAPITAL	
<i>General income</i> (art. 25(4) of the LIRPF)	<i>Savings income</i> (art. 25(1), (2) and (3) of the LIRPF)
<i>Income arising from intellectual property, technical assistance, image rights, etc.</i>	<i>Dividends. Interest. Monetary return or payment in kind on life or disability insurance contracts</i>

□ **Art. 25 of the LIRPF** - Income from movable capital (investment income) includes specifically:

- Income received from the participation in any kind of company's capital (art. 25(1) of the LIRPF)
- Return obtained on the assignment of own capital to third parties (art. 25(2) of the LIRPF)
- Income from life insurance contracts and from capitalisation transactions (art. 25(3) of the LIRPF).
- Other income from movable capital (art. 25(4) of the LIRPF)

## 4.3. TAXABLE INCOME: INCOME FROM MOVABLE CAPITAL

□ *Rendimientos obtenidos por la participación en fondos propios de entidades* (art. 25(1) of the LIRPF):

- Any income from participation in a company's capital, e.g. **dividends** and other distributions, profit-sharing rights and any other income derived from an entity by taxpayers in their capacity as members, shareholders or partners
- Proceeds from sales of subscription rights attached to unquoted shares (*acciones no cotizadas*) must be declared and computed **as a capital gain** in the year of transfer
- Delivery of fully or partially paid-up shares = **capital gains**
- Savings income → savings tax base

## 4.3. TAXABLE INCOME: INCOME FROM MOVABLE CAPITAL

□ *Rendimientos derivados de la cesión a terceros de capitales propios* (art. 25(2) of the LIRPF):

- Return obtained on the assignment of own capital to third parties, e.g. **interest**; any other kind of payment on the assignment of own capital to third parties; income derived from the transfer, reimbursement, redemption, exchange or conversion of any kind of assets representing the use of third-party capital
- Savings income → savings tax base

## 4.3. TAXABLE INCOME: INCOME FROM MOVABLE CAPITAL

□ *Rendimientos de contratos de seguro de vida y operaciones de capitalización* (art. 25(3) of the LIRPF):

- Yields arising under accrued income schemes (capitalization transactions) or under a (life) insurance scheme – *prestaciones derivadas de operaciones de capitalización y seguros de vida.*
- Income from life or temporary annuities, where the taxpayer is both the recipient and the investor – *rentas temporales o vitalicias por imposición de capitales*
  - Savings income → savings tax base

## 4.3. TAXABLE INCOME: INCOME FROM MOVABLE CAPITAL

### □ *Otros rendimientos de capital mobiliario* (art. 25(4) of the LIRPF):

- Income from the leasing of movable property and the leasing of **businesses** (*income from the leasing of the business premises = income from immovable capital*)\* or mines.
  - Royalties attached to intellectual or industrial works if the taxpayer is not the author (*if the taxpayer is the author: employment income*)\*.
  - Technical assistance fees, unless supplied in the course of business.
  - Compensation received for “the right to a person’s image” (or authorisation or consent to use this right), when the taxpayer does not perform economic or professional activities
- General income → general tax base

## 4.3. TAXABLE INCOME: INCOME FROM MOVABLE CAPITAL

### Income from movable capital in kind:

- Computation? Gross income from movable capital in kind = market value of the right/good (+) the amount of the *ingreso a cuenta* (WHT) paid by the entity, unless such *ingreso a cuenta hubiese sido repercutido* to the beneficiary/payee.

**Gross benefits in kind = market value + *ingreso a cuenta* (si no repercusión)**

- Amount of *ingreso a cuenta* (WHT on account):

***Ingreso a cuenta* = cost/value of acquisition X 120% X 19%**

# 4.3. TAXABLE INCOME: INCOME FROM MOVABLE CAPITAL

## NET INCOME FROM MOVABLE CAPITAL

Gross income	
Net income	Gross income (-) Deduction of expenses
Net (and reduced) income	Net income (-) Reductions



1. Income received from the participation in any kind of company's capital (savings tax base)
2. Return obtained on the assignment of own capital to third parties (savings tax base)
3. Income from life insurance contracts and from capitalisation transactions (savings tax base)
4. Other income from movable capital (general tax base)

### Deduction of expenses?

- Mainly: expenses for the administration and deposit of securities (*valores negociables*)
- In the case of income from technical assistance, leasing of movable property, businesses or mines: expenses of arts. 13 and 14 of the RIRPF (<https://www.boe.es/buscar/act.php?id=BOE-A-2007-6820>) may be deducted + depreciation of goods.
  - Net income from movable capital (after applying such deductions the result may be negative)
- In the case of income from the transfer, depreciation, exchange or conversion of financial assets (art. 25(2) (b) of the LIRPF): expenses of acquisition and transfer are deductible expenses.

### Reductions? General rule = the whole net income from movable capital

- 30% reduction (limit: €300,000) for income under art. 25(4) of the LIRPF when the income is generated over a period exceeding 2 years

## 4.4. TAXABLE INCOME: BUSINESS INCOME

- **Concept?** The result of the economic activities of a taxpayer aimed directly at the production or distribution of goods or services (*“Ordenación por cuenta propia de medios de producción”*)
  - In particular, farming, fishery, mining, manufacturing, construction, commerce and the performance of professional and independent artistic or athletic activities
  - The leasing of immovable property is treated as a business activity **only** when the lessor or trader in real estate has at least **one full-time employee**.
  - **Business income V. Income from capital:** AFFECTACIÓN = when the asset is attached to a business activity or professional activity (*“elementos patrimoniales afectos”*), income is regarded as business income. If there is no such link, income arising from assets will be regarded as income from (immovable or movable) capital



## 4.4. TAXABLE INCOME: BUSINESS INCOME

### □ AFFECTACIÓN (“*elementos patrimoniales afectos*”) – requirements?

- The use of such elements is required for obtaining the business income.
- An exclusive use related to the objective pursued by the activity.
  - Private needs are excluded (that is, the asset cannot be used at the private level), unless it refers to an accessory and non-relevant use, i.e. the use of the asset during a bank holiday.
  - In the case of cars and motorbikes, they are only considered as part of the activity when they are exclusively attached to the activity.
- The asset is totally attached.
  - If the asset can be divided, the part of the asset attached to the economic activity (*afectación parcial*), e.g. a lawyer who owns an apartment and uses a part of the apartment as his/her home and the other part as his/her law firm.
  - In the case of indivisible assets, e.g. vehicle = “*afectación parcial*” is not admitted

## 4.4. TAXABLE INCOME: BUSINESS INCOME

### □ Computation of net business income?

- Business income is generally computed in accordance with the corporate tax rules:
  - Direct method of computation (*método de estimación directa normal/simplificada*).
- For businessmen and professionals with a small/medium-sized turnover and whose professions are listed annually in a decree of the Ministry of Finance:
  - Special computation regime (*método de estimación objetiva*) based on parameters

<b>Direct method of computation (ordinary)</b>	The real and effective amount of profits and expenses resulting from the activity		Application of: <ul style="list-style-type: none"> <li>• Tax incentives included in the LIS</li> <li>• Investment deduction</li> </ul>
<b>Direct method of computation (simplified)</b>		Certain taxpayers may apply the simplified regime which implies fewer formal obligations	
<b>Special computation regime</b>	Net income is determined by reference to the standards and parameters of the activity		<b>No</b> application of: <ul style="list-style-type: none"> <li>• Tax incentives included in the LIS</li> <li>• Investment deduction</li> </ul>

# 4.4. TAXABLE INCOME: BUSINESS INCOME (ORDINARY) *DIRECT METHOD OF COMPUTATION*

- Net income is computed with reference to the rules applicable to companies – requirements?
  - Above €600,000 turnover (in the prior year)
  - Rejection (or non-application) of the simplified regime

CALCULATION DIAGRAM	
Net income	(+) Gross income (-) Deduction of expenses
(-) Reductions	<ul style="list-style-type: none"><li>• Non-periodical income or income generated over a period exceeding 2 years</li><li>• The development of certain activities</li><li>• The beginning of the economic activity</li></ul>
(=) Net (and reduced) income	

- Computation of net income? According to corporate tax rules with particularities

# 4.4. TAXABLE INCOME: BUSINESS INCOME (ORDINARY) *DIRECT METHOD OF COMPUTATION*

## □ Computation of net income?

- Net income is the balance of gross turnover (including self-consumption of goods and any grants or subsidies) less (necessary) expenses and depreciation of related assets

INCOME	EXPENSES
Business profits	Expenses related to the economic activity, e.g. wages and salaries, Social Security, depreciation, repairs, etc.
Grants and subsidies	Amounts paid to the taxpayer's spouse and minor children if <u>legal requirements are met</u> (contract, Social Security, salary according to the professional qualification)
Self-consumption of goods	The transfer of goods or rights from the above-mentioned relatives: deducted expenditure when the transaction value does not exceed the market value
	Insurance premiums related to the taxpayer and his/her spouse and children under 25 (living together): <u>€500 limit (or €1,500 limit if disability)</u>

- If an asset attached to the business is transferred, the capital gain/loss will not qualify under business income

# 4.4. TAXABLE INCOME: BUSINESS INCOME (SIMPLIFIED) *DIRECT METHOD OF COMPUTATION*

## □ Requirements?

- Maximum €600,000 turnover (in the previous year)
- No rejection of the simplified regime
- No application of the special computation regime

### CALCULATION DIAGRAM

Net income	(+) Gross income (-) Deduction of expenses (except provisions and expenditure which is difficult to substantiate) (-) Depreciation according to the official rates (=) Preliminary net income ( <i>rendimiento neto previo</i> ) (-) 5% (limit: €2,000) [concept? provisions and expenditure which is difficult to substantiate]
(-) Reductions	<ul style="list-style-type: none"> <li>• Non-periodical income or income generated over a period exceeding 2 years</li> <li>• The development of certain activities</li> <li>• The beginning of the economic activity</li> </ul>
(=) Net (and reduced) income	

# 4.4. TAXABLE INCOME: BUSINESS INCOME

## (SIMPLIFIED) *DIRECT METHOD OF COMPUTATION*

□ Computation of net income? Net income is the balance of gross turnover (including self-consumption of goods and any grants or subsidies) less (necessary) expenses. Thus, same rules as the ordinary method with **2 particularities**

CALCULATION DIAGRAM	
Net income	(+) Gross income (-) Deduction of expenses (except provisions and expenditure which is difficult to substantiate) (-) Depreciation according to the official rates (=) Preliminary net income ( <i>rendimiento neto previo</i> ) (-) 5% (limit: €2,000) [concept? provisions and expenditure which is difficult to substantiate]

- Fixed assets are depreciated according to the official rates (*OM 27 March 1998*)
- Provisions and expenditure which is difficult to substantiate = 5% of the preliminary net income up to €2,000 (limit).

## 4.4. TAXABLE INCOME: BUSINESS INCOME

### *SPECIAL COMPUTATION REGIME*

- ❑ Activities listed by the Ministry of Finance: *Ministerial Order* (for the 2017 tax period: [https://www.boe.es/diario\\_boe/txt.php?id=BOE-A-2016-11252](https://www.boe.es/diario_boe/txt.php?id=BOE-A-2016-11252))
- ❑ Quantitative limits:
  - Turnover (in the prior year):
    1. General limit: €150,000 per year (**2017 tax period: €250,000 per year**)
    2. Special limit: €75,000 per year (2017 tax period: €125,000 per year)
    3. Farming activities: 250.000€/year
  - Acquisition of goods and services (in the prior year): €150,000 per year (**2017 tax period: €250,000 per year**)
- ❑ Taxpayers cannot carry out, in whole or in part, their activity abroad.
- ❑ No rejection of the special computation regime

## 4.4. TAXABLE INCOME: BUSINESS INCOME

### *SPECIAL COMPUTATION REGIME*

- ❑ Businesspeople engaged in listed activities (e.g. 1- and 2-fork restaurants) must determine their net income, **separately for each activity**, by reference to the parameters and standards set out by the Ministry of Finance for the listed activities (e.g. employees, tables) – the taxpayer may elect to be taxed according to the direct method
  - Index-related method – notional amount
- ❑ Taxpayers **must exclude capital gains or losses** from assets attached to their businesses.
- ❑ No application of corporate tax incentives.
- ❑ All activities carried out by the taxpayer should follow the method, but the net income will be separately determined for each activity



## 4.4. TAXABLE INCOME: BUSINESS INCOME

- ❑ Non-periodical income or income generated over a period exceeding 2 years (art. 32(1) of the LIRPF) is **reduced by 30%** (limit: €300,000), e.g. subsidies for acquiring non-depreciable assets, compensation received for the termination of the business.
- ❑ The development of certain activities (art. 32(2) of the LIRPF)
  - **General** allowance: €2,000 per year
  - **In addition**, taxpayers with a net business income (NBI) up to €11,250: a €3,700-per-year allowance. Taxpayers with an NBI between €11,250 and €14,450: the result of the following formula:  $€3,700 - [1.15625 \times (NBI - €11,250)]$
  - Taxpayers with **disability**: €3,500 or €7,750 if they require assistance or have 65% disability
  - The final amount **cannot be negative**. Any unused part of the allowance is definitively lost
- ❑ The beginning of the economic activity (art. 32(3) of the LIRPF)
  - Only for the **direct method of computation** – a 20% reduction of the NBI (1<sup>st</sup> and subseq.) with the €100,000 limit

## 4.5. TAXABLE INCOME: CAPITAL GAINS

□ **Concept?** The variations in the value of the taxpayer's (net) wealth, which arise when there is any alteration in its composition, unless the LIRPF classifies the variations as returns or earnings (art. 33(1) of the LIRPF)

■ Conceptual definition:

- i. no capital gain/loss = mere specification of rights (e.g. *división de la cosa común, disolución de la sociedad de gananciales, etc.*)
- ii. no capital gain/loss = a variation in the composition of the capital (e.g. *extinción del régimen económico matrimonial u operaciones de reducción de capital*)
- iii. Exempt capital gains: art. 33(4) of the LIRPF
- iv. Cases that are not regarded as capital losses: art. 33(5) of the LIRPF

## 4.5. TAXABLE INCOME: CAPITAL GAINS

### □ Classification:

- General income: gains (or losses) other than from the transfer of assets, e.g. lottery prizes, prize awarded in a TV quiz show, floods, etc.
  - If there is a net gain, the gain is **added** to all other general income and taxed at progressive rates
  - If there is a net loss, it may be used to **offset** general income up to a 25% limit of the total general income. If the offset results in a loss, it may be offset in the **following 4 years**.
- Savings income: gains (or losses) derived from the **transfer of assets**
  - They can only be **offset against each other**
  - If there is a net loss, it may be used to **offset** savings income up to a 25% limit (20% in 2017). If the offset results in a loss, it may be offset in the **following 4 years**.

## 4.5. TAXABLE INCOME: CAPITAL GAINS

- Rollover relief: art. 38 of the LIRPF – *“exención en supuestos de reinversión”*
  - Full/total reinvestment = full exemption
  - Partial reinvestment = partial exemption
  - A. Transfer of the primary residence – the entire proceeds are **reinvested**, within a 2-year period, **in the acquisition of a new primary residence.**
  - B. Capital gains on the sale of participations in recently incorporated firms **are reinvested** in the same type of companies.
  - C. Capital gains realised by taxpayers over the age of 65 from the transfer of any of their assets (immovable/movable) when the total amount (limit: €240,000) is **reinvested**, within a 6-month period, **to set up an insured life annuity to their benefit**

# 4.5. TAXABLE INCOME: CAPITAL GAINS

## *GENERAL RULE OF COMPUTATION*

❑ Gains (or losses) **other than** from the transfer of assets , e.g. prize awarded in a TV quiz show (general income → general tax base)

▪ **Computation?** Market value of the assets

❑ Gains (or losses) derived from the **transfer of assets**, e.g. the transfer of a dwelling (savings income → savings tax base)

▪ **Computation?** The difference between the transfer price and the acquisition cost

	TRANSFER PRICE	ACQUISITION COST
<u>cost</u>	(+) Real amount of the transfer (-) Expenses and taxes related to the transfer	(+) Real amount of the acquisition (+) Reinvestments and improvements (+) Expenses and taxes related to the acquisition (-) Depreciation

# 4.5. TAXABLE INCOME: CAPITAL GAINS

## *SPECIAL RULES OF COMPUTATION (1/2)*

□ Gains (or losses) derived from the transfer of **quoted shares on regulated markets**

▪ **Computation?** The difference between the transfer price and the acquisition cost

TRANSFER PRICE	ACQUISITION COST
(+) The official quotation price or the actual price paid, whichever is the highest (-) Expenses related to the transfer	(+) Acquisition price (+) Expenses and taxes related to the acquisition

□ Gains (or losses) derived from the transfer of **unquoted shares**

▪ **Computation?** The difference between the consideration received by the transferor (excepting costs) and the acquisition cost.

# 4.5. TAXABLE INCOME: CAPITAL GAINS

## *SPECIAL RULES OF COMPUTATION (2/2)*

- ❑ Gains (or losses) on the **exchange of assets/rights**
  - **Computation?** The difference between the acquisition price of the item being transferred and the market price of the item received in exchange or the item given in exchange, whichever is the highest.
  - That is, the transfer price: (i) market price of the item received; or, (ii) market price of the item given.
- ❑ Gains (or losses) derived from the transfer of assets (goods or rights) attached to business activities: **transfer price (–) acquisition cost (net book value)**

# 4.5. TAXABLE INCOME: CAPITAL GAINS

## *COLLECTIVE INVESTMENT INSTITUTIONS*

### □ Shares in collective investment institutions:

- **Computation?** The gain (or loss) is determined as the difference between the acquisition cost and the transfer value, whereby the transfer value is the net asset value on the transfer or redemption date (or, in the absence of that value, the latest published value).
- If there is no net asset value, the value of equity on the balance sheet for the latest tax year concluding before the due date of the tax will be used.



# 4.5. TAXABLE INCOME: CAPITAL GAINS

## *CAPITAL GAINS RELATED TO THE CHANGE OF RESIDENCE*

Since January 2015, when a person holding shares, who has maintained his/her residence in Spain for **10 years in a 15-year period**, moves his/her residence to another country → art. 95 bis of the LIRPF → even if the person has not transferred the shares, the gain (which has not actually been generated) is subject to tax: **UNREALISED GAIN** (*PLUSVALÍA LATENTE*)

- *Se someten a gravamen las plusvalías mobiliarias latentes en el momento de la salida de los contribuyentes del territorio español, a diferencia de los sujetos que mantienen su residencia que sólo tributarán cuando tales incrementos patrimoniales se produzcan efectivamente.*
- *Plusvalías latentes que hayan generado acciones/participaciones hasta el momento del traslado*
- *To be integrated in the savings tax base: acquisition value (–) market value (supplementary self-assessment)*

Scope of application? The owner of shares (in any type of entity) with a market value over 4 million euros, or 1 million euros if he/she owns more than 25% of the entity's capital.

Purpose of this measure? FIGHT AGAINST TAX FRAUD: **EXIT TAX**

# 4.5. TAXABLE INCOME: CAPITAL GAINS

## *CAPITAL GAINS RELATED TO THE CHANGE OF RESIDENCE*

Specific cases where the taxpayer is not immediately taxed:

### □ **Temporary changes of residence:**

- A person who moves to another country to work provided that the host country is not regarded as a tax haven and there is a DTC with Spain including an exchange of information clause.
- The taxpayer can request a deferment (tax deferral): **5 year-period** (possibility of an extra 5 years if there are justified reasons).
  - If the taxpayer does not return within such period: payment of the tax
  - If the taxpayer returns within such period: tax debt is extinguished as well as interest on arrears

### □ **Change of residence at the European level**

- Taxpayer who relocates to an EU country, or a country in the EEA with an effective exchange of information – special regime: art. 95 bis (6) of the LIRPF. The tax will only have to be paid if **within a 10-year period** after the change of residence, one of the following circumstances arises:
  - The taxpayer transfers the shares
  - The taxpayer forfeits his/her status as a resident in the EU or EEA
  - The taxpayer does not fulfil regulatory reporting requirements

## 4.6. TAXABLE INCOME: IMPUTED INCOME

- ❑ *Imputaciones de renta que se establecen por ley – rentas que no se perciben efectivamente por el contribuyente, pero se someten a imposición y se integran en la BI general*
- ❑ Income is imputed in the following cases:
  - Immovable property, excluding permanent taxpayer's home (see slide 35)
  - CFC regime
    - Income from passive investment in non-EU resident entities located in low-tax jurisdictions is **attributed** to its Spanish resident participator and therefore is taxed in Spain
  - Transfer of a person's image right, e.g. a sportsman has granted the right to his image to a (foreign) entity with whom the sportsman has a contract
  - Collective investment institutions established in tax havens
    - Taxpayers holding participations in investment funds established in tax havens are deemed to realise an annual capital gain amounting to 15% of the acquisition value of the investment or the effective difference between the investment value on the last day of the tax year and the acquisition value, whichever is higher

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  - e) Capital gains
  - f) Other income
- 5. Tax base. Reductions in the tax base. Assessable base.**
6. Personal and family allowances
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# 5. TAX BASE

TAX BASE (art. 47 of the LIRPF)	
GENERAL TAX BASE	SAVINGS TAX BASE
Employment income	--
Income from immovable capital	--
Income from movable capital (art. 25(4) of the LIRPF)	Income from movable capital (art. 25(1), (2) and (3) of the LIRPF)
Business income	--
Imputed income	--
Gains (or losses) other than from the transfer of assets	Gains (or losses) derived from the transfer of assets

**How is the (general/savings) tax base calculated?** Integration and offsetting of positive/negative amounts of general/savings income

# 5. TAX BASE. GENERAL TAX BASE

GENERAL TAX BASE	
Employment income	<u>Actual and imputed income:</u> <ul style="list-style-type: none"><li>• Compensation with no limit</li><li>• +/- result</li><li>• Direct integration into the general tax base</li></ul>
Income from immovable capital	
Income from movable capital (art. 25(4) of the LIRPF)	
Business income	
Imputed income	
Gains (or losses) other than from the transfer of assets	<u>Integration and offsetting</u> (between gains and losses) <ul style="list-style-type: none"><li>• Positive (+) balance: general tax base</li><li>• Negative (-) balance: compensation with income up to 25%</li></ul>

# 5. TAX BASE. SAVINGS TAX BASE

## SAVINGS TAX BASE

Income from movable capital (art. 25(1), (2) and (3) of the LIRPF)			<u>Integration and offsetting between these items</u> <ul style="list-style-type: none"> <li>• Positive (+) balance: savings tax base</li> <li>• Negative (–) balance: offsetting with capital alterations up to the 25% (20% in 2017)</li> </ul>
Income from participation in a company's capital	Return obtained on the assignment of own capital to third parties	Income from life insurance contracts and from capitalisation transactions	
Gains (or losses) derived from the transfer of assets			<u>Integration and offsetting (between gains and losses)</u> <ul style="list-style-type: none"> <li>• Positive (+) balance: savings tax base</li> <li>• Negative (–) balance: offsetting with income from movable capital up to 25% (20% in 2017)</li> </ul>

# 5. TAX BASE. ASSESSABLE BASE

## NET BASE (art. 50 of the LIRPF)

GENERAL ASSESSABLE BASE	SAVINGS ASSESSABLE BASE
Reduction for family taxation	Savings tax base – to be reduced with the remaining amount of the following reliefs: <ul style="list-style-type: none"><li>• Reduction for family taxation</li><li>• Reduction for compensatory pensions</li></ul> <b>THE SAVINGS NET BASE CANNOT BE NEGATIVE!!</b>
Reduction for contributions to mutual insurance societies covering retirement, accidents, work-related illness or disability	
Reduction for compensatory pensions	
Reduction for contributions to mutual insurance societies covering sports professionals	

TAX BASE

—

REDUCTIONS  
(in the tax base)

=

ASSESSABLE BASE



# 5.1. GENERAL AND SAVINGS ASSESSABLE BASE

## □ REDUCTION FOR FAMILY TAXATION

- Members of a family unit may opt for joint taxation – to file a joint tax return
- Kinds of family unit:
  - Married couples and their minor children under 18 years of age (unless living apart with parental consent) and those older than 18 who have been judicially declared as legally incompetent and subject to extended *patria potestas*: **€3,400**
  - Unmarried parents and their minor children: **€2,150**

**The GENERAL ASSESSABLE BASE cannot be NEGATIVE after applying such REDUCTION. The remaining amount (if any) will be used for reducing the savings tax base (the savings assessable base cannot be negative)**

## 5.1. GENERAL ~~AND SAVINGS~~ ASSESSABLE BASE

- **REDUCTION FOR CONTRIBUTIONS TO MUTUAL INSURANCE SOCIETIES COVERING RETIREMENT, ACCIDENTS, WORK-RELATED ILLNESS OR DISABILITY**
  - Two regimes
  - General regime (art. 51 of the LIRPF): reduction for contributions to mutual insurance societies covering retirement, accidents, etc.
    - **Limit** (art. 52 of the LIRPF): reduction for contributions up to the lower amount: (i) 30% of the amount of employment and business income, or (ii) €8,000 per year
  - Special regime (arts. 53 & 54 of the LIRPF): reduction for contributions to mutual insurance societies covering disability

# 5.1. GENERAL AND SAVINGS ASSESSABLE BASE

## □ REDUCTION FOR COMPENSATORY PENSIONS

- Art. 55 of the LIRPF: *“Las pensiones compensatorias a favor del cónyuge y las anualidades por alimentos, con excepción de las fijadas en favor de los hijos del contribuyente, satisfechas ambas por decisión judicial, podrán ser objeto de reducción en la base imponible”*
- Compensatory pensions and support allowances in favour of the spouse (except child support allowances)
- Under court order

## 5.1. GENERAL ~~AND SAVINGS~~ ASSESSABLE BASE

### □ REDUCTION FOR CONTRIBUTIONS TO MUTUAL INSURANCE SOCIETIES COVERING SPORTS PROFESSIONALS

- Additional provision 11<sup>th</sup> of the LIRPF: *“Los deportistas profesionales y de alto nivel podrán realizar aportaciones a la mutualidad de previsión social... podrán ser objeto de reducción en la base imponible general (...), con el límite de la suma de los rendimientos netos del trabajo y de actividades económicas percibidos individualmente en el ejercicio y hasta un importe máximo de 24.250€”*
- Sports professionals – reduction if certain conditions are met (Additional provision 11<sup>th</sup> of the LIRPF)
- Limit of **€24,250** of the amount of net employment and business income

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- 6. Personal and family allowances**
7. Rates. Tax debt.
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## 6. PERSONAL AND FAMILY ALLOWANCES

A part of the assessable base, which is aimed at covering personal and family (basic) needs, **is not taxed**

- How to calculate the minimum and personal family allowance? Sum of the taxpayer relief and the family allowances (descendant, ancestor and disability)
- Articles 56 – 60 of the LIRPF.
- Article 60 of the LIRPF: rules for applying personal and family allowances

Regions can increase or reduce the amount of personal and family allowances (Law 22/2009)

## 6. PERSONAL AND FAMILY ALLOWANCES

TAXPAYER ALLOWANCE	
General	€5,550
Older than 65	+ €1,150
Older than 75	+ €1,400
CHILDCARE ALLOWANCE (descendants)	
First child	€2,400
Second child	€2,700
Third child	€4,000
Fourth and additional children	€4,500
An additional allowance for every child under 3 years old	+ €2,800
OLD-AGE ALLOWANCES (ascendants)	
Ascendants of 65 years or older/any disabled ascendants	€1,150
Ascendants older than 75	+ €1,400

## 6. PERSONAL AND FAMILY ALLOWANCES

DISABILITY ALLOWANCE	
Disabled taxpayer	€3,000
Severely disabled taxpayers (i.e. 65% disability)	€9,000
Taxpayer requires assistance from third parties or has reduced mobility	+ €3,000
Disabled ascendants or descendants	€3,000
Ascendants or descendants with 65% disability	€9,000
Assistance for disabled ascendants or descendants	+ €3,000



# 6. PERSONAL AND FAMILY ALLOWANCES

For the application of allowances, personal and family circumstances on the accrual date (31/12) should be considered. SPECIAL RULES:

- Death of descendants before 31 December: fixed amount of €2,400
- Death of ascendants before 31 December: fixed amount of € 1,150
- Death of the taxpayer before 31 December: personal and family circumstances on the death date\*

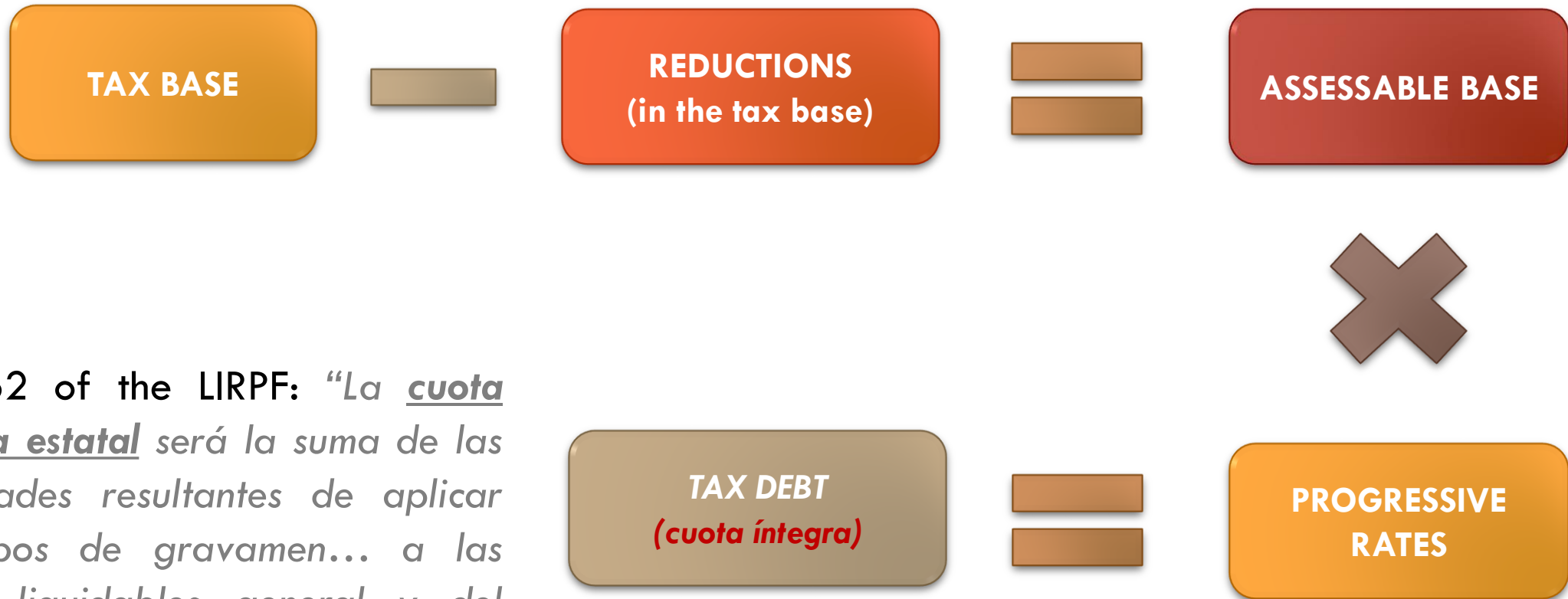
Allowances apply (1<sup>st</sup>) to the GENERAL ASSESSABLE BASE and, for the remaining amount (if any), the SAVINGS ASSESSABLE BASE.

- It is relevant for the calculation of (state and regional) tax rates.

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# 7. RATES. TAX DEBT.



Art. 62 of the LIRPF: “La cuota íntegra estatal será la suma de las cantidades resultantes de aplicar los tipos de gravamen... a las bases liquidables general y del ahorro”

# 7. RATES. TAX DEBT

## ■ STATE TAX DEBT

- General net base: general scale (art. 63 of the LIRPF)
- Savings net base: *escala estatal del ahorro* (art. 66(1) of the LIRPF)

## ■ REGIONAL TAX DEBT

- General net base: tax rate scales approved by the taxpayer's region of habitual residence
- Savings net base: regional savings scale established by law (art. 74 of the LIRPF)

- **Deduction** of the amounts of personal and family allowances (both state and regional).

# 7.1. RATES. TAX DEBT. *CUOTA ÍNTEGRA ESTATAL*

## General tax base > personal and family allowances

1. Application of the general scale to the general assessable base
2. The general scale applies to the total amount of income included in the general assessable base
3. The resulting amount is reduced by the amount obtained after applying the general scale to the personal and family allowances
4. **State general tax debt**
5. Application of the “*escala estatal del ahorro*” to the savings assessable base
6. **State savings tax debt**
7. **STATE TAX debt** = state general tax debt + state savings tax debt

## General tax base </= personal and family allowances

1. The general assessable base is not taxed, **state general tax debt** = 0
2. The remaining amount of personal and family allowances are integrated into the savings assessable base
3. Application of the scale to the savings assessable base
4. The resulting amount is reduced by the amount obtained after applying the scale to the remaining amount of personal and family allowances
5. **State savings tax debt**

## 7.2. RATES. TAX DEBT *CUOTA ÍNTEGRA AUTONÓMICA*

### General tax base > personal and family allowances

1. Application of the “*escala aprobada por la CA residencia habitual contribuyente*” to the general assessable base
2. The regional scale applies to the total amount of income included in the general assessable base
3. The resulting amount is reduced by the amount obtained after applying the regional scale to the personal and family allowances
4. **Autonomous general tax debt**
5. Application of the “*escala autonómica del ahorro*” to the savings assessable base (art. 76(1) of the LIRPF)
6. **Autonomous savings tax debt**

### General tax base </= personal and family allowances

1. The general assessable base is not taxed, **regional general tax debt = 0**
2. The remaining amount of personal and family allowances are integrated into the savings assessable base
3. Application of the regional scale to the savings assessable base
4. The resulting amount is reduced by the amount obtained after applying the regional scale to the remaining amount of personal and family allowances
5. **Regional savings tax debt**

# 7.3. RATES. TAX DEBT *CUOTAS LÍQUIDAS: ESTATAL Y AUTONÓMICA*



## 7.4. RATES. TAX DEBT

The “*cuota líquida estatal*” (which cannot be negative) is the result of subtracting the following deductions from the TAX DEBT:

*Deduction for investments in newly or recently formed companies*  
(art. 68(1) of the LIRPF)

*Deduction for business activities*(art. 68(2) of the LIRPF)

*Deduction for qualifying gifts*(art. 68(3) LIRPF)

*Deduction for income obtained in Ceuta and Melilla* (art. 68(4) of the LIRPF)

*Deduction for cultural assets* (art. 68(5) of the LIRPF)

**50% of the total amount**



## 7.4. RATES. TAX DEBT. *CUOTA LÍQUIDA ESTATAL*

### Deduction for investments in newly or recently created companies

- Art. 68(1) of the LIRPF
  - Seed money: *aportación capital a nuevas empresas*
  - Business angel: *inversión en nuevos negocios + colaboración desarrollo de la entidad con conocimientos empresariales*
- A deduction of **20%** of the amount invested in the acquisition of shares or participations in a newly (or recently) incorporated company is granted
- Requirements?
  - A minimum holding period of **3 years** and maximum holding period of **12 years**
  - Direct or indirect participation held by the acquirer or their spouse, siblings or any other person related by blood: no more than 40% of the company's capital or its voting rights.
  - The deduction is not applicable to investments consisting of participation/shares in an entity which is engaged in the same activities that were previously carried out under a different ownership.

## 7.4. RATES. TAX DEBT. *CUOTA LÍQUIDA ESTATAL*

### Deduction for business activities

- Individual businesspeople and self-employed professionals determining their net income under the direct method of computation generally enjoy the same investment incentives as are available to corporate businesspeople (at the same rates and limits)
- Moreover, art. 68(2) of the LIRPF = “*deducción por inversión en beneficios*”
- Taxpayers determining their net income under the special computation regime = no deduction for business activities

## 7.4. RATES. TAX DEBT *CUOTA LÍQUIDA ESTATAL*

### Deduction on qualifying gifts (art. 68(3) of the LIRPF)

- Gifts under Law 49/2002 on foundations and tax incentives for private investment in activities of general interest, e.g. public universities:
  - A 75% deduction for donations below €150
  - A 30% deduction for larger gifts (under certain conditions, a 35% deduction)
- Other gifts: a **10% deduction** for contributions to non-qualifying foundations or associations.
- Political parties: a **20% deduction** is granted for membership fees and contributions to political parties and electoral federations or groups (maximum base: €600 per year)
- Limit? **10%** of the (general and savings) net base (art. 69(1) of the LIRPF)

## 7.4. RATES. TAX DEBT *CUOTA LÍQUIDA ESTATAL*

### **Deduction for income obtained in Ceuta and Melilla**

- Art. 68(4) of the LIRPF
- Deduction for taxpayers who have their residence in Ceuta or Melilla
- Deduction for taxpayers who obtain part of their income in those cities although they do not have their residence there

## 7.4. RATES. TAX DEBT *CUOTA LÍQUIDA ESTATAL*

### Deduction for cultural assets

- Art. 68(5) of the LIRPF (*deducción por actuaciones para la protección y difusión del Patrimonio Histórico Español y del Patrimonio Mundial*)
- A **15% deduction** is available for:
  - The cost of acquisition of assets outside Spain in order to introduce them into our country, when those assets are registered as National Heritage. The asset must remain in Spain, and in the taxpayer's ownership, for **at least 4 years**.
  - The repair, restoration, promotion and exhibition of assets of cultural interest registered as National Heritage owned by the taxpayer.
  - The rehabilitation of buildings.
- Limit? **10%** of the (general and savings) net base (art. 69(1) of the LIRPF)



## 7.5. RATES. TAX DEBT *CUOTA LÍQUIDA AUTONÓMICA*

Calculation? Deduction of the regional tax debt with the following amounts (art. 77(1) of the LIRPF):

1. 50% the total amount of deductions of paragraphs (2), (3), (4) and (5) of art. 68 of the LIRPF
2. The amount of the deductions established by each region
  - Valencia Region: art. 4 of Law 13/1997 (modified by 13/2016)

Limit? The “*cuota líquida*” cannot be negative

## 7.6. RATES. TAX DEBT *CUOTA DIFERENCIAL Y RESULTADO DECLARACIÓN*

The tax assessment of the IRPF ends with the result of the tax return

Payments on account

+ CL estatal
+ CL autonómica
<b>CL total (positiva/«0»)</b>
– Deducción doble imposición internacional
– Deducciones doble imposición régimen TFI y régimen imputación rentas cesión d <sup>chos</sup> imagen
<b>Cuota resultante autoliquidación (positiva/«0»)</b>
– Retenciones e ingresos a cuenta
– Pagos fraccionados
– Otros conceptos considerados pagos a cuenta del IRPF
<b>Cuota diferencial (positiva/negativa/«0»)</b>
– Deducción maternidad
– Deducciones familia numerosa o personas discapacidad
<b>Resultado declaración (ingresar/devolver)</b>

## 7.6. RATES. TAX DEBT *CUOTA DIFERENCIAL Y RESULTADO DECLARACIÓN*

- a) The double taxation relief
  - Source State v. Residence State (Spain)
  - DTC (bilateral measure) or LIRPF (unilateral measure)
  - LIRPF: limited deduction
  
- b) Spanish resident individuals are granted an ordinary credit for foreign taxes paid in relation to the distribution of profits by CFC (except if the latter is resident in a tax haven)
  
- c) Double taxation relief concerning the transfer of the right to a person's image



## 7.6. RATES. TAX DEBT *CUOTA DIFERENCIAL Y RESULTADO* *DECLARACIÓN*

### a) **Withholding tax**

- Income subject to withholding tax, which is (generally) creditable as an advance levy against the individual's final tax liability. **The payer = the withholder** (art. 99(2) of the LIRPF and art. 76 of the RIRPF)
- Who are obliged to withhold tax? Entities; businesspeople and professionals (business income); individuals and entities with no residence in Spain when there is a PE, or when there is no PE but employment income (or other income) incurring deductible expenses.
  - ❑ **NO OBLIGATION: individuals without the status of businesspeople or professionals**
- When? Moment of the payment of income subject to withholding tax
- Amount? Withholding (%) rate (X) (gross) payment/remuneration

## 7.6. RATES. TAX DEBT *CUOTA DIFERENCIAL Y RESULTADO DECLARACIÓN*

a) Withholding

**b) *Ingresos a cuenta***

- Payments/remuneration in kind that are subject to withholding: *obligación ingreso a cuenta*
  - Employment income: contributions to pension plans or to mutual insurance societies (which are used for reducing the tax base): no withholding/*no ingreso cuenta*
- Basis? Payments in kind are valued in accordance with the market price
  - \*In the case of income from movable capital and prizes (capital gains): the acquisition price or cost to the payer, increased by 20%.
- Withholding (%) rate (X) payment/remuneration in kind (gross)

## 7.6. RATES. TAX DEBT. *CUOTA DIFERENCIAL Y RESULTADO DECLARACIÓN*

- a) Withholding
- b) *Ingresos a cuenta*
- c) ***Part payments***

**Businesspeople and professionals** (regardless of the computation method) are required to file quarterly **returns** and make **advance payments** by **20 April, 20 July and 20 October** of the ongoing year and **30 January** of the next year on account of final income tax liability for the ongoing year

- Amount? art. 101(11) of the LIRPF

## 7.6. RATES. TAX DEBT. *CUOTA DIFERENCIAL Y RESULTADO DECLARACIÓN*

### □ Deduction for maternity

Women who are working and have children under 3 years of age can decrease the tax debt (*cuota diferencial*) up to €1,200 (per child)

- Amount? Deduction = €100 per month (proportion/requirements). Possibility of getting the deduction in advance
- The 2018 General State Budget Law has increased the amount of the deduction up to €1,000 when the taxpayer has incurred expenditures related to nursery or authorised education centres

## 7.6. RATES. TAX DEBT. *CUOTA DIFERENCIAL Y RESULTADO DECLARACIÓN*

### □ Deduction for large families or disabled and dependent persons

- Who has the right to the deduction? Workers (employed or self-employed), unemployed and pensioners
- Deduction = €100 per month (proportion/requirements). Possibility of getting the deduction in advance
  - Disabled and dependent ascendants/descendants up to €1,200
    - This deduction also applies to the (non-legally separated) spouse with disability provided that the spouse does not obtain income over €8,000 (2018 General State Budget Law)
  - Large families up to €1,200 (2,400€ in the case of special large families)
- In order to encourage childbirth, the 2018 General State Budget Law has increased the amount of the deduction up to €600 per every child who is over the minimum to be considered a large family
  - This increase will not be considered in order to calculate the limit under art. 81 bis (2) of the LIRPF

## 7.6. RATES. TAX DEBT. *CUOTA DIFERENCIAL Y RESULTADO DECLARACIÓN*

### A. Positive tax return (*declaración positiva*) = payment (*resultado ingresar*)

- When the tax debt (*cuota resultante autoliquidación*) is **greater** than payments on account: payment of tax (the difference)
- Payment in cash or in kind (e.g. National Heritage assets)
- The payment can be divided: 60% of the amount when submitting the tax return, and 40% of the amount in November.

### B. Negative tax return (*declaración a devolver*) – Tax refund claim (*con solicitud devolución*)

- When the tax debt (*cuota resultante autoliquidación*) is **lower** than payments on account (and deductions for maternity, large family and disability), tax authorities must pay the relevant amount to the bank account given by the taxpayer in the return **within 6 months** of the closing date of the period for the voluntary filing of returns.

### C. Negative tax return (*declaración negativa*) = no payment or refund (*sin ingreso ni devolución*)

- When the tax debt (*cuota resultante autoliquidación*) is «0» or negative, there is no payment or refund (e.g. cases where the taxpayer rejects the refund).

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8. **Family taxation. Administration**
9. Gains arising from certain prizes

# 8.1. FAMILY TAXATION

- ❑ General rule: single tax return
- ❑ Family unit: joint taxation (optional) – joint tax return
  - Married couples and their minor children under 18 years of age (unless living apart with parental consent) and those older than 18 who have been judicially declared as legally incompetent and subject to extended *patria potestas*.
  - Unmarried parents and their minor children.
- ❑ It is applicable to all members of the family unit (individual persons with residence in Spain regardless of whether they obtain income subject to the IRPF)
- ❑ The option is **not binding** for future years, but once the option is selected for a specific year, it cannot be changed with retroactive effect in the future.



# 8.1. FAMILY TAXATION

## □ Joint tax return

- Income obtained by all members of the family unit is taxed cumulatively.
- **Single** general tax base (+ savings tax base)

## □ Specific rules (art. 84(2) of the LIRPF)

- Reduction for family taxation (€3,400 per year or €2,150 per year)
- Limits applying to reductions for pensions – individually applied
- **Single** taxpayer relief: €5,500 per year
- Offsetting of capital losses and negative general assessable bases of any member of the family unit of previous tax years, even when a single tax return is filed.

## □ To be in line with EU Law, the 2018 General State Budget Law has introduced a tax credit in favour of taxpayers who cannot submit a joint tax return because some family members have their residence in a Member State of the EU or of the EEA.

- The tax debt is equal to the tax debt that the taxpayer would pay if all family members had their residence in Spain

## 8.2. ADMINISTRATION

All individuals resident in Spain must **file a tax return** with respect to their taxable income and simultaneously pay the tax (art. 96 of the LIRPF). **However**, there are two types of taxpayers who are **excused from such formal obligation**:

1. Taxpayers obtaining income only from the following sources (within limits and in joint and single taxation):
  - Gross **employment income** within the limit of 22,000 per year. **\*Limit of €12,000 per year** in the following cases:
    - More than one payer (unless the amount received by other payers is up to €1,500 per year → **limit of €22,000 per year**)
    - Compensatory pensions or support allowances which are not tax exempt
    - Payer is not obliged to withhold tax
  - Income from **movable capital** and **capital gains** provided that they are subject to withholding tax and within the limit of €1,600 per year
  - **Imputed** income from **immovable capital**, income from **movable capital** (no withholding tax) arising from “*Letras Tesoro*” and **subsidies** for acquiring social housing (VPO) within the (joint) limit of €1,000 per year

## 8.2. ADMINISTRATION

1. Taxpayers obtaining income only from the following sources (within limits and in joint and single taxation)
2. Taxpayers obtaining income only from employment, business activities or capital gains, regardless of the withholding rate.
  - Joint limit of €1,000 per year and capital losses < €500
  - Single or joint taxation

Tax return + (self-)assessment of the IRPF: May–June. The tax return must be submitted for claiming the tax refund.

Forms are available at the Finance Ministry

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## 9. *GAINS ARISING FROM CERTAIN PRIZES*

- Gains arising from certain prizes are subject to IRPF through a **special tax**
- Additional provision 33 of the LIRPF: taxation of income derived from prizes when such income is incorporated to the taxpayer's estate
- **No** integration into the tax base. **No** tax return + (self-)assessment. Specific procedure.
- **Tax event:** (i) *premios de loterías y apuestas Estado y de las CCAA, Cruz Roja & ONCE*; (ii) lottery prizes, bets and similar raffles in other Member States of the EU or the EEA
- **Tax exemption:** €2,500 provided that the lottery ticket has a price of at least €0.50
- **Accrual date:** payment of the prize awarded

# 9. GAINS ARISING FROM CERTAIN PRIZES

- **Tax base:**
  - Prizes in cash: the prize amount over €2,500
  - Prizes in kind: the market price (–) the amount of the “*ingreso a cuenta*” and the exempt amount
- **Tax debt** (*cuota íntegra*): tax base (X) 20%
- **Withholding**/*ingresos a cuenta*: 20%
  - Taxpayer → → → withholder
  - Taxpayer subject to withholding → no assessment obligation
  - Withholding tax as final payment
  - Withholder should submit a monthly declaration with the withholding amount/“*ingreso a cuenta*”
  - The assessment obligation applies only when there is no withholding tax, e.g. prizes awarded in other Member States of the EU/EEA.