Teaching Manual Spanish Corporation TAX: Practical Application Fiscal Year 2023

Leticia Gallego Valero
Luis Miguel Hermoso Chaves

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Vicerrectorado de Cultura
Campus Las Lagunillas, Edificio Biblioteca
23071 Jaén (España)
Teléfono 953 212 355
web: editorial.ujaen.es

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editorial@ujaen.es

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Introduction

The Corporation Tax is a fiscal instrument that forms part of the Spanish Tax System. It is a periodic, proportional, direct and personal tax on the income obtained by companies and other legal entities. It is regulated by Law 27/2014, of 27 November, and by Royal Decree 634/2015, of 10 July, which approves the Corporation Tax Regulation. However, there are some specific provisions, which are regulated by particular legislation for certain sectors or institutions, such as international bodies of which Spain is a member, special regimes based on territory of residence, cooperatives, the oil industry, foundations, venture capital entities , tax incentives for private participation in activities for the public interest, environmental protection, etc.

This teaching manual is intended as a useful tool for students of Public Sector Economics to gain a basic theoretical and practical understanding of corporate taxation. To this end, numerous practical examples are included to enable the application of this tax and to clarify common issues as well as those that present greater complexity. The answers to the exercises refer to the 2023 tax period, applying the regulations in force during this period and introducing any modifications to the regulations.

In the different sections of this manual, partial exercises are provided, including the applicable regulations underpinning the study of the theoretical concepts, as well as explanatory notes that help students to understand the solutions to the exercises. In addition, at the end of each exercise there are some notes on the Corporation Tax that give a quick overview of the tax to facilitate its understanding, as well as a glossary of concepts to clarify the most relevant terms.

This manual is based on the teaching material in Spanish that the teachers of the subject use, and including further explanations of specific points for foreign students when necessary. Firstly, after this introduction, we find the theoretical chapter, which leads into the second one composed by exercises. A general outline of the tax and a glossary of concepts are attached at the end of the manual, with a list of the references used for its the elaboration.

Corporate Tax Theory (Tax period 2023)

1. INTRODUCTION

1.1. Applicable legislation

The key legislation on Corporate Tax, applicable to tax periods from 1 January 2017, comprises Law 27/2014, of 27 November, on Corporate Tax, and Royal Decree 634/2015, of 10 July, which approves the Regulation on Corporate Tax.

In addition, a number of other provisions should be taken into account, which can be divided into the following groups:

a. The first one consists of the State Budget Laws for each year.
b. The second group of provisions comprises the specific legislation for certain sectors or institutions, such as international bodies of which Spain is a member, special regimes based on territory of residence, cooperatives, the oil industry, foundations, venture capital entities, tax incentives for private participation in activities for the public interest, environmental protection, etc.

1.2. Concept and nature

Corporate tax is a direct and personal tax levied on the income of companies and other legal entities in accordance with the provisions of the Law.

Under this principle, we can note the following:

a. It is a direct tax; it is levied on income as a direct manifestation of economic capacity, although in practice it is possible to transfer the amount of the corporation tax on to the prices of goods and services.
b. It is a personal tax; for it to be applied it must refer to a particular person, although it does not take into account "personal or family circumstances", nor does it has a progressive scale, typical of personal taxes.
c. It is a periodic tax; certain time divisions (tax periods) are established for the tax is to be paid; and it is a summary tax, because it is levied equally on the total income of legal entities regardless of the origin or source of that income.
d. It is a proportional tax, because the rate increases by the same percentage as the taxable base increases.

These characteristics only apply to taxable entities under personal obligation to pay the tax; different characteristics apply to non-resident taxable entities.

1.3. Scope of application

Corporate Tax applies throughout Spain. However, there are two exceptions to this principle, which are the special tax regimes based on the territory of residence and international conventions and treaties.

a. Special tax regimes based on territory. These include legally-established regional regimes, namely those of the Basque Country and Navarre, as well as the Canary Islands and Ceuta and Melilla, where there are certain variations from the common regime.
b. International conventions and treaties. The following are included under international conventions and treaties:
    - The treaties and conventions in force between Spain and other states to prevent double taxation of income as well as other bilateral treaties, which, although dealing with different matters, contain provisions that affect this tax.
    - Multilateral conventions and treaties to which Spain is a party, and those signed with international organizations that affect the legal system of this tax.

1.4. Income allocation

The income corresponding to general partnerships, unsettled inheritances, community estates, and other entities referred to in Article 35.4 of General Tax Law 58/2003 of 17 December, as well as the withholdings and advance payments of tax they have been made, shall be attributed to the partners, heirs, community members and shareholders, respectively.

Therefore, entities under the income allocation regime shall not pay corporate tax.

2. TAXABLE EVENT

Any income obtained by the taxpayer, regardless of its source or origin, constitutes a taxable event.

In this regard, corporate tax is not only levied on income derived from transactions that have actually taken place, but is also levied on what is referred to as presumed income, in order to prevent tax evasion or avoidance.

3. TAXPAYER

Tax law does not define the taxpayer (under this tax it is the same as the taxable entity), but it provides a complete list of the entities that shall be considered taxpayers.

These entities can be classified into two groups:

- Entities with a legal personality, including general partnerships that have a commercial purpose.
- Entities without a legal personality, including joint ventures, investment funds, venture capital funds, pension funds, mortgage market regulation funds, etc.

There are two forms of tax liability for taxable entities: personal obligation or real obligation to pay taxes.

a. Taxable entities liable by personal obligation. Entities resident in Spain are liable due to personal obligation.

These entities are taxed on their worldwide income, that is, on all income and capital gains they receive regardless of where they occurred.

b. Taxable entities liable by real obligation. Taxable entities are liable by real obligation when they are not resident in Spain but obtain income in Spanish territory, or receive income from a person or a public or private entity resident in Spanish territory.

The entities that are not resident in Spanish territory only have to pay taxes in Spain when they obtain income or capital gains within the Spanish territory, in which case, they will be taxed in accordance with the legislation on Non-Resident Income Tax.

4. EXEMPTIONS

There are two types of exemptions in corporate tax legislation:

Taxable event: for certain taxable events, the tax liability does not apply. Notable examples are the exemptions to avoid double taxation, governed by Articles 21 and 22 of the Corporate Tax Law.

Taxable entity: for certain taxable entities, the tax liability does not apply. Corporate Tax Law establishes a list of exempt entities, although some of them are only partially exempt: (Article 9 of the Corporate Tax Law). In this context, the following types of exemptions can be identified:

1. Full exemptions, applicable to public sector entities:
    a. The State, Autonomous Communities, local authorities, the autonomous bodies of the State and public law entities analogous to Autonomous Communities and local authorities, the Bank of Spain, the Deposit Guarantee Fund for Credit Institutions, and Investment Guarantee Funds.
    b. Managing Entities and Common Services of Social Security.
    c. The Institute of Spain and the official Royal Academies that comprise it, and the Public Interest Oversight Board for auditing standards, professional ethics and related matters.

2. Partial exemptions, applicable to certain types of entities only for the part of their income derived from the activities that constitute their corporate purpose or specific purpose, including:
    a. The non-profit entities and institutions eligible for the tax regime for non-profit entities, and the tax incentives for patronage established under the terms of Part II of Law 49/2002 of 23 December 2002.
    b. Certain entities covered by the provisions of Chapter XIV of Part VII of Law 27/2014, including: non-profit entities and institutions not covered by the previous section; unions, federations and cooperatives; professional associations, business associations, official chambers and workers' unions; etc.
    c. Political parties are partially exempt from the tax, under the terms established in Organic Law 8/2007, of 4 July, on the financing of political parties.

5. TAXABLE BASE

The taxable base is the amount of income obtained during the tax period, offset by negative taxable bases from previous tax periods.

5.1. Determination procedures

The taxable base is determined by the direct estimation method, by the objective estimation method, and, alternatively, by the indirect estimation method.

a. With the direct estimation method, the tax base is calculated by correcting (applying the provisions of the Corporate Tax Law) the book result determined in accordance with the regulations established in the Commercial Code, in the other laws regarding this determination, and in any provisions which may be laid down in the pursuant to said regulations.
b. With the objective estimation method, the taxable base may be totally or partially determined by applying the signs, indices or modules to the activity sectors as determined by the applicable law.

Exercises on Corporation Tax

EXERCISE 1

The following information is available for company "X":

1. It has paid shareholders an amount as dividends from their ownership stake.
2. All expenditure entered into the accounts has been included in the corporate income tax return.
3. The acquisition, on the last day of the tax period, of a good that forms part of the taxable entity's assets has been included as a deductible expense in the tax return.
4. Some receipts and payments have been included corresponding to income and expenditure during this period.

Task: Determine the tax treatment of these transactions under corporation tax.

Answer

Article 15. Non-deductible expenses. The following shall not be considered tax-deductible expenses: a) those representing a payment of equity. For the purposes of this Law, payments relating to securities representing the capital or equity of entities resident and non-resident in Spain, irrespective of their accounting status, shall be considered payments of equity.

1. Remuneration on equity is not considered tax deductible expenditure (Art. 15.a. L.)

Article 11.3. *Temporary imputation. Accounting for income and expenses. Expenses that have not been accounted for in the profit and loss account or in a reserve account will not be tax deductible if so established by a legal or regulatory standard, except for the provisions of this Law regarding the patrimonial elements that may depreciate freely or accelerated.*

2. Expenses are tax deductible when they are entered into the accounts; however, there are some expenses that are not tax deductible even though they are entered into the accounts (Art. 11.3 L.)

Article 12. Value adjustments: depreciation.
1. The amounts relating to the tax depreciation or amortization of tangible fixed assets, intangible fixed assets and real estate investments corresponding to the actual depreciation of the various items through their use, enjoyment or obsolescence shall be deductible.

3. Depreciable assets can only be deducted through depreciation (Art. 12.1 L.)

Article 11.1. *Time period allocation. The income and expenses derived from transactions or economic events shall be allocated to the tax period in which they occur, in accordance with accounting regulations, regardless of the date on which payment is received, respecting the due correlation between the two.*

4. Income and expenses derived from the company's economic events shall be included in the tax period in which they accrue, regardless of when the receipt or payment occurs (Art. 11.1 L.)

EXERCISE 2

Company "X" presents on the asset side of its balance sheet, at 31-12-23, certain depreciable items of fixed assets. The relevant information on these assets, for the purpose of calculating the depreciation, is shown in the table below.

Depreciable items	Purchase date	Purchase price	Accumulated depreciation (31-12-2023)	Max. rate	Max. per.
Commercial building	1-01-2016	60,000	9,400	2%	100
Industrial building	1-01-2016	185,000	36,075	3%	68
Information processing equipment	1-12-2023	14,000	0	25%	8
Furniture	1-06-2010	9,000	9,000	10%	20

The rates indicated for the commercial building, industrial building, furniture and information processing equipment corresponds to the tax depreciation rates approved by Law 27/2014, of 27 November, on Corporation Tax (applicable to items purchased from 01-01- 2015).

Additional Information:

a. The commercial building is depreciated under the system based on official tables (land value: 13,000 euros)
b. The industrial building is depreciated under the system based on official tables (land value: 35%)
c. The information processing equipment was purchased on 1 December, which was also the placed-in-service date. It is depreciated under the system based on official tables.
d. For furniture, the depreciation system based on official tables has been applied.

Task: Determine the maximum and minimum amounts of tax deductible depreciation for the financial year 2023 using the method based on official tables.