

TAXATION OF NON-RESIDENTS IN SPAIN

NON-RESIDENT INCOME TAX

This document is an exact copy of the information provided by Agencia Tributaria (Spanish Tax Authority). For more details, please visit the website www.agenciatributaria.es

CONTENTS

1.-RESIDENCE

- Individuals.
- Bodies corporate.
- Optional system for individuals who acquire tax residence in Spain because they have moved to Spain as a result of an employment contract.

2. INCOME OBTAINED IN SPAIN AND EXEMPTIONS

- Income obtained in Spain.
- Exemptions.

3. INCOME OBTAINED THROUGH A PERMANENT ESTABLISHMENT

- Definition of permanent establishment.
- Tax base, tax rate, deductions, tax period, tax due and complementary taxation.
- Withholdings, advance tax payments and partial payments. Tax Return.

4. INCOME NOT OBTAINED THROUGH A PERMANENT ESTABLISHMENT

- Tax base, tax rate and deductions.
- Methods of filing tax returns on non-residents' income not obtained through an EP.
- Taxation of the most usual kinds of income obtained by non-resident taxpayers without an EP:

- Income from employment.
- Income from economic activities.
- Income from real-estate property.
- Income from dividends and interest.
- Pensions.
- Capital gains from the sale of real-estate property.

5. SPECIAL TAX RATE ON REAL-ESTATE PROPERTY OF NON-RESIDENT BODIES CORPORATE

6. DOUBLE-TAXATION AGREEMENTS

7. OTHER INTERVENING PARTIES

- The representative.
- Parties that are jointly and severally liable.
- The withholding party.

8. SPECIAL PROCEDURE FOR DETERMINING INCOME-TAX WITHHOLDINGS WHEN CHANGING COUNTRY OF RESIDENCE

[Appendix I. Countries with double-taxation agreements with Spain.](#)
[Appendix II. Applicable tax rates in double-taxation agreements.](#)
[Appendix III. Tax havens.](#)
[Appendix IV. Applicable regulations.](#)

1.- RESIDENCE

The way in which individuals and bodies corporate pay tax in Spain varies depending on whether or not they are residents of Spain.

INDIVIDUALS

Individuals shall be deemed to have their principal residence in Spain if they meet any of the following conditions:

- They spend more than 183 days per calendar year in Spain. Occasional absences shall be taken into account to calculate the period of residence, except when said individuals prove they have their tax residence in another country. In the case of countries or territories classified as tax havens, the Spanish tax authorities may request proof of residence in the tax haven for 183 days per calendar year.

- Calculation of the period of residence shall not take into account any temporary stays in Spain that are the result of obligations arising from cultural or humanitarian collaboration agreements entered into with the Spanish public administration with no payment involved.

- Their main or central place of business is directly or indirectly located in Spain.

Unless there is evidence to the contrary, an individual shall be deemed to be a resident of Spain if, in accordance with the aforementioned criteria, his or her legally non-separated spouse and dependent minor children have their principal residence in Spain.

Individuals of Spanish nationality who prove they have changed their country of residence to a tax haven (Appendix III) shall continue to be liable for Personal Income Tax (IRPF) in Spain for the tax period in which the change of residence occurs and the following four tax periods.

An individual shall be deemed to be a resident or non-resident for the entire calendar year, given that a change of residence does not give rise to an interruption of the tax period.

Proof of tax residence

Tax residence shall be proven by means of a certificate issued by the competent tax authority in the country in question. This certificate shall be valid for one year. An individual may have a residence permit or administrative residence in a country and yet not be deemed to have tax residence there.

Special cases

Individuals of Spanish nationality, their legally non-separated spouses and minor children who have their principal residence outside Spain shall be deemed liable to pay IRPF if they meet any of the following conditions:

- They are members of a Spanish diplomatic mission, including the head of the mission and members of the mission's diplomatic, administrative, technical and service staff.

- They hold a post or are employees of a Spanish consulate, including the consul and the civil servants and service staff employed there, except for honorary vice-consuls or honorary consular officers and their staff

- They are employees of the Spanish state belonging to a permanent accredited delegation or representation before international institutions or forming part of a delegation or mission of observers abroad.

- They are active civil servants working in an official post or job abroad, even if it is not of a diplomatic or consular nature.

However, this shall not apply in any of the following cases:

- If the individuals mentioned above are not active civil servants, or do not hold an official post or job, and had their usual place of residence abroad before becoming subject to any of the aforementioned conditions.

- If the usual place of residence of legally non-separated spouses and minor children was in another country before the spouse, father or mother became subject to any of the aforementioned conditions.

Furthermore, on the basis of reciprocity, foreign aliens who have their usual place of residence in Spain because they are members of diplomatic missions or foreign consulates in Spain, international organizations based in Spain, etc. shall pay Non-resident Income Tax (IRNR) rather than IRPF.

Residence Under Tax Conventions

In all agreements signed by Spain, reference is made to each country's internal legislation when defining an individual's country of residence. Given that different countries may have different criteria in this respect, an individual may occasionally be deemed to be a resident of two countries

In such cases, the agreements stipulate the following general criteria to avoid this possibility of an individual being deemed to be a resident of two countries.

- The individual shall be deemed to be a resident of the country in which he/she has a permanent home

- If he/she has a permanent home in both countries, he/she shall be deemed to be a resident of the country with which he/she has the closest personal and economic ties (centre of vital interests).

- If the situation cannot be determined in this way, he/she shall be deemed to be a resident of the country in which he/she usually lives.

- If he/she habitually lives in both countries or neither of them, he/she shall be deemed to be a resident of the country whose nationality he/she holds.

- Finally, if he/she is a national of both countries or neither of them, the competent authorities shall endeavour to settle the question by mutual agreement.

BODIES CORPORATE

A body corporate shall be deemed to be a resident of Spain if it meets any of the following conditions:

- It was incorporated in accordance with Spanish law.
- It has its registered office in Spain.
- It has its effective headquarters in Spain. A body corporate shall be deemed to have its effective headquarters in Spain if management and overall control of its activities are based in Spain.

If there is a change of residence, the tax period shall end when this change occurs.

Proof of tax residence

A body corporate shall provide proof of its tax residence in a country by means of a certificate issued by the competent tax authority in the country in question. This certificate shall be valid for one year.

OPTIONAL SYSTEM FOR INDIVIDUALS WHO ACQUIRE TAX RESIDENCE IN SPAIN BECAUSE THEY HAVE MOVED TO SPAIN AS A RESULT OF AN EMPLOYMENT CONTRACT

In accordance with the legislation in force as from 1 January 2004, individuals who acquire tax residence in Spain as a result of moving to Spain may choose to pay IRPF or IRNR during the tax period in which the change of residence takes place and for the following five tax periods if they meet the following conditions:

- They were not residents of Spain in the ten years prior to their new move to Spain.
- The move to Spain is the result of an employment contract.
- The work involved is actually carried out in Spain.
- The work is carried out for a resident company or body corporate or the permanent establishment (PE) in Spain of a body corporate that is not a resident of Spain.

- The earned income deriving from said employment relationship is not exempt from IRNR.

Taxpayers who choose to pay IRNR shall, as a real obligation, be liable to capital tax.

The regulations that develop the procedure for exercising this option are pending publication.

2-INCOME OBTAINED IN SPAIN AND EXEMPTIONS

Non-resident individuals and bodies corporate shall be subject to Non-Resident Income Tax (IRNR) depending on the extent to which their income is obtained in Spain.

INCOME OBTAINED IN SPAIN

Until recently, there were two criteria for determining whether income was generated in Spain: source of income and payment by a resident. However, in accordance with Spanish tax regulations in force as from 1 January 2003, the criterion of payment shall only be applicable to income where expressly stipulated. The criteria according to which each type of income is deemed to be obtained in Spain are as follows:

Income from economic activities

- Activities carried out by means of a permanent establishment (PE) in Spain.
- Activities not carried out by means of an PE in Spain when:
 - They are a consequence of economic activities carried out in Spain, except for income deriving from the installation or assembly of machinery or equipment supplied from abroad, when the installation or assembly operations are performed by the supplier and the corresponding amount does not exceed 20% of the purchase price. Nevertheless, income obtained from international purchases and sales of merchandise, including auxiliary expenses and mediation royalties, shall not be deemed to be income obtained in Spain.
 - They consist used in Spain. When only part of these services are rendered TO economic activities carried out in Spain, only the income obtained from that part shall be deemed to be generated in Spain.
 - They are derived from the personal performance in Spain of artists and sportspeople, even if payment is received by another individual or body corporate.

Income from dependent personal services

- In general, earned income derived from activities carried out by an individual in Spain.
- Income paid by the Spanish administration, except when the work is entirely carried out abroad and is subject to personal income tax in another country.

- Income earned by employees of ships and aircraft involved in international trade when paid by resident employers or bodies corporate or by PEs located in Spain, except when the work is entirely carried out abroad and is subject to personal income tax in another country.

Pensions and similar benefits

- When derived from work carried out in Spain.
- When paid by resident individuals or bodies corporate or PEs located in Spain.

Income of managers and members of boards of directors (or other bodies that perform the same function) and representative bodies

- When paid by a resident body corporate.

Income from Dividends, Interests, Royalties and other fees

- Dividends and other income from participation in the equity of resident bodies corporate.
- Interest and other income from third-party loans paid by resident individuals or bodies corporate or PEs located in Spain, or interest and other income from loans of capital used in Spain.
- Royalties received from resident individuals or bodies corporate or PEs that are located in Spain, or royalties that are used in Spain.
- Other income from capital not mentioned above and received from individuals in the performance of that individual's economic activities, or from resident bodies corporate or from PEs located in Spain.

Income from real-estate property

- Income derived directly or indirectly from real-estate property located in Spain or from real rights derived therefrom.

Income attributable to individuals who own urban real estate not used for economic activities

- Income from real-estate property located in Spain.

Capital gains

- Capital gains from investments in securities issued by resident individuals or bodies corporate.

- Capital gains from moveable property located in Spain or rights realizable in Spain.
- Capital gains from real-estate property located in Spain.
- Capital gains from assets located in Spain or rights realizable or practicable in Spain, including gains not derived from prior transfers, such as gambling winnings.

The following exception applies to all types of income:

Income paid to non-resident individuals or bodies corporate by and for the account of an PE located abroad is not deemed to be earned in Spain when the services rendered are directly linked to the PE's activities abroad.

EXEMPTIONS

The following income, among others, obtained by non-residents without an PE is not subject to IRNR:

Income which, in accordance with IRPF regulations, is exempt from income tax when earned by an individual, such as:

Grants

As from 1 January 2004, all grants for officially recognized studies in Spain or abroad, at any level or stage of the educational system, are exempt from income tax when awarded by the Spanish public authorities or non-profit organizations to which the special system regulated under Title II of Law 49 of 23 December 2002 on the tax system for non-profit organizations and sponsorship tax incentives is applicable. Also exempt are any grants awarded by the Spanish public authorities or the aforementioned non profit organizations for research within the scope of Royal Decree 1326 of 24 October 2003, which approved the Statute for Research Grant holders, and research grants awarded by said non-profit organizations to civil servants and other personnel at the service of the public administrations as well as university teaching and research personnel.

Until 31 December 2003, public grants for studies at any level or stage of the educational system were exempt from income tax, up to and including the undergraduate university degree level or equivalent.

Pensions

Pensions recognized by the Spanish Social Security as a consequence of permanent disability for any job or total invalidism, or by the Civil-Servant Pension Scheme as a consequence of loss of fitness for work or permanent disability.

Winnings from lotteries, bets and draws

Winnings from lotteries and bets organized by the public organization “Loterías y Apuestas del Estado” and the Autonomous Communities of Spain, as well as draws organized by the Spanish Red Cross and the Spanish National Organization for the Blind (ONCE).

Old-age pension benefits recognized in accordance with Royal Decree 728 of 14 May 1993, which establishes old-age pension benefits for Spanish emigrants.

Interest and capital gains from moveable property when obtained by residents in other European Union (EU) Member States or by said residents' PEs in other EU Member States, except when:

- Interest and/or capital gains are obtained through a tax haven (Appendix III).
- Capital gains are derived from the transfer of shares, stakes or other rights in a body corporate, in whose share capital or equity the taxpayer has directly or indirectly held at least a 25% stake during the 12 months prior to said transfer.
- Capital gains are derived from the transfer of shares, stakes or other rights in a body corporate, in whose share capital or equity the taxpayer has directly or indirectly held at least a 25% stake during the 12 months prior to said transfer.

Yields from investments in public-debt securities, except when obtained through a tax haven (Appendix III).

Yields and capital gains from securities issued in Spain by non-residents.

Yields of non-residents' bank accounts. With the exclusive aim of proving exemption from the withholding tax obligation on non-residents' bank accounts, IRNR taxpayers may provide the corresponding financial institution with a certificate issued by the tax authorities in the country of residence or a statement declaring they have tax residence in another country; said statement shall follow the model included as Appendix VI to the Order of 9 December 1999, which approved Forms 216 and 296.

The Bank of Spain and the registered institutions referred to in the regulations on foreign economic transactions at which non-residents' hold accounts are obliged to present Form 291 (Non-Resident Income Tax. Declaration for Information Purposes of Yields of Non-Residents' Accounts) to provide the Spanish tax authorities with data on said accounts.

Earnings distributed by resident subsidiaries in Spain to their parent companies that are residents of other EU Member States, provided certain conditions are met.

A parent company is one that holds a direct stake of at least 25% in another company. The company in which the stake is held is the subsidiary. This exemption shall be applicable provided the parent company is not a resident of a country or territory classified as a tax haven (Appendix III).

Income from transfers of securities or sales of shares in investment funds carried out on official secondary securities markets in Spain and obtained by individuals or bodies corporate that are residents of a country with which Spain has signed an agreement that includes a data exchange clause, provided said income is not obtained through a tax haven (Appendix III).

Grants and other sums paid to individuals by the public administration by virtue of international agreements on cultural, educational and scientific cooperation or the Annual Plan for International Cooperation approved by the Spanish Cabinet.

3-INCOME OBTAINED THROUGH A PERMANENT ESTABLISHMENT (P.E)

Taxation of non-residents of Spain varies considerably depending on whether or not the non-resident has a permanent establishment in Spain. This factor is therefore of special importance.

DEFINITION OF PERMANENT ESTABLISHMENT

An individual or body corporate is considered to operate through an PE when he/she/it has any of the following in Spain:

- Management offices
- Branches
- Offices
- Factories
- Workshops
- Warehouses, shops or other establishments
- Mines
- Oil or gas wells
- Quarries
- Farms, forestry facilities, livestock farms or any other site where natural resources are collected
- Construction, installation or assembly sites whose duration lasts more than six months

In short, when, by any legal means, a non-resident has continuous or habitual work facilities in Spain or a place to do any kind of work where he/she/it performs all or part of his/her/its activity, or when he/she/it acts in Spain through an agent with powers to enter into an agreement in the name and on behalf of the non-resident individual or body corporate, provided said powers are exercised on a regular basis, it shall be considered that the non-resident is acting in Spain through an PE.

TAX BASE. TAX RATE. DEDUCTIONS. TAX PERIOD. TAX DUE. COMPLEMENTARY TAXATION.

Non-residents that obtain income through an PE in Spain shall be taxed for the total amount of income attributable to said PE, regardless of where it was obtained.

Tax base

The tax base of the PE is calculated in accordance with the provisions on the general system of the Corporate Taxation Act (Ley del Impuesto sobre Sociedades, LIS), and the system of offsetting negative tax bases is applicable (fifteen years) with the following special features:

- Application of the binding regulations for the operations carried out by the PE with its head office or with another PE of the same head office.

- In general, the payments made by the PE to the head office for royalties, interest, commissions, technical services and the use or transfer of goods or rights are not deductible.
- Part of the general and management expenses attributed to the PE by the head office is deductible, provided these expenses are reflected in the PE's accounting statements and are attributed continually and rationally. To calculate these expenses, taxpayers may submit proposals to the tax authorities so they can determine the part of the general and management expenses that is deductible.

Tax rate

General tax rate	35%
Hydrocarbon research and mining	40%

Deductions and rebates

An PE may apply the same deductions and rebates to its total tax liability as organizations subject to corporate tax.

Tax period and tax due

The tax period coincides with the financial year in question, which may not be more than twelve months. Tax becomes due on the last day of the tax period.

Complementary taxation

When PEs of non-resident organizations (not individuals) transfer income abroad, a complementary tax of 15% shall be charged on the amounts transferred.

This tax shall not be applicable to those PEs whose head office has its tax residence in another EU Member State or a country that has signed an agreement with Spain in which another system is not expressly established.

Form 210 is used for the tax return, which shall be filed within one month of the date the income is transferred abroad.

WITHHOLDINGS. ADVANCE TAX PAYMENTS AND PARTIAL PAYMENTS. TAX RETURN.

Withholdings and advance tax payments

PEs are subject to the same withholding system on their income as organizations subject to corporate tax.

Partial payments

PEs are obliged to make partial tax payments in advance under the same terms as organizations subject to corporate tax. The formal obligations relative to partial payments are as follows:

• **Filing deadlines:**

- Within the first 20 calendar days of April, October and December.

• **Tax forms:**

- In general, Form 202.

When no partial payments are payable, it is not obligatory to submit Form 202.

- Large companies, Form 218.

This form must be submitted even if no partial payments are payable.

• **Place for filing tax returns:**

- Form 202.

Form 202 can be filed and a tax payment can be made at any collaborating institution (bank, savings bank or credit union) that is authorized to handle tax collection and is located in Spain.

- Large companies, Form 218.

It is obligatory to present Form 218 via the Internet.

Tax return

PEs must present a tax return using the same forms and within the same deadlines as resident organizations subject to corporate tax.

• **Filing deadline:**

Within the 25 calendar days immediately following the six-month period after the end of the tax period.

• **Tax forms:**

200 or 201.

• **Place for filing tax returns:** (See table)

Result of Tax Return	Place for Filing Tax Return
Positive (payment due)	At any branch in Spain of an authorized collaborating institution (bank, savings bank or credit union).
Tax refund	In general, at any branch in Spain of an authorized collaborating institution where the taxpayer has an account in his/her/its name in which he/she/it wishes to receive the tax refund requested
Waiver of tax refund or zero liability	At the offices of the tax authorities in person or by registered mail

4-INCOME NOT OBTAINED THROUGH A PERMANENT ESTABLISHMENT (EP)

TAX BASE. TAX RATE. DEDUCTIONS

Income not obtained through an PE shall be taxed on each individual total or partial accrual of income subject to tax. Tax shall be payable on each individual operation, which means no gains may be offset by losses.

Tax base

In general, the tax base shall be the gross tax base due, i.e. without deduction of any expenses.

Tax rate

- In general, the applicable rate is 25%.
- A rate of 2% shall be applicable to income earned by non-resident individuals in Spain by virtue of specific-duration employment contracts for foreign seasonal workers, in accordance with Spanish labour regulations.
- Dividends and other income from participation in the equity of bodies corporate. The tax rate varies depending on the year the income is accrued, as per the following table:

Year income accrued	1999 2000	2001 2002	As from 1 Jan. 2003
Tax rate	25%	18%	15%

- Interest and other income from capital loans to third parties. The tax rate varies depending on the year the income is accrued, as per the following table:

Year income accrued	1999 2000	2001 2002	As from 1 Jan. 2003
Tax rate	25%	18%	15%

- A rate of 10% shall be applicable to royalties paid to a body corporate that is a resident of an EU Member State or a body corporate's permanent establishment (PE) in another EU Member State, provided that certain requirements are met (with effect from 1 January 2005).
- Pensions and similar benefits payable to individuals who are non-residents of Spain, regardless of the party that has generated said right to payment, shall be taxed according to a scale (see the section on Pensions).

- A rate of 8% shall be applicable to income earned by individuals who are non-residents of Spain (provided they are not liable to pay IRPF) and employed by Spanish diplomatic missions and consulates abroad, so long as the specific regulations of any international treaties to which Spain is a party are not applicable.
- A rate of 1.5% shall be applicable to income from reinsurance operations.
- A rate of 4% shall be applicable to income of non-resident maritime shipping and airline companies that make calls or land in Spain.
- Income from the transfer or sale of shares or shareholdings in the capital or assets of collective investment companies shall be taxable at the rate in force for the year when the income is accrued, as per the following table:

Year income accrued	1999 2000	2001 2002	As from 1 Jan. 2003
Tax rate	35%	18%	15%

- A rate of 35% shall be applicable to all other capital gains not included above.

Deductions

Only the following deductions may be made to taxable income:

- Deductions for charitable contributions in accordance with the IRPF Act and the Law on the tax system for non-profit organizations and sponsorship tax incentives.
- Tax already withheld on a non-resident's income.

METHODS OF FILING TAX RETURNS ON NON-RESIDENTS' INCOME NOT OBTAINED THROUGH AN PE

Non-resident taxpayers shall not be required to file the corresponding tax return when tax has already been withheld on income obtained (see the section on The Withholding Party).

In particular, it shall be compulsory to file a tax return on income obtained in any of the following ways:

- Income subject to Non-Resident Income Tax (IRNR) where there is no obligation to withhold tax at source. Such cases include, for example, capital gains from sales of shares.
- Income attributed from urban real-estate property ownership (only individuals).
- Income paid by parties not authorized to withhold tax. For example, rentals obtained by leasing real-estate property when the lessee is an individual and such payments do not involve an economic activity.

- Capital gains obtained from transfers of real estate property.
- When applying for a refund of tax withheld or paid at source that is in excess of the tax liability.

Standard Tax Return: Form 210

This form shall be used when filing a tax return for any kind of income (only one party's income) obtained by a non-resident without an PE, except for capital gains from transfers of real-estate property, which shall be filed on a specific form (212).

• Place for filing tax returns:

Tax returns shall be filed at the offices or a branch of the tax authorities in accordance with the following guideline:

- Tax returns for income from real-estate property or a rental attributable to an individual who is an owner of urban real-estate property shall be filed at the tax office that corresponds to the location of said property.

- In all other cases:

- When a tax return is filed by a representative, a jointly and severally liable party or a withholding party, it shall be filed at the tax office that corresponds to the address for tax purposes of the party in question.

- When a tax return is filed personally by the taxpayer, it shall be filed at the tax office corresponding to his/her representative. The following shall apply when there is no representative:

- If income is declared, the tax return shall be filed at the tax office corresponding to the paying party.

- If capital gains subject to withholding tax are declared, the tax return shall be filed at the tax office corresponding to the withholding party's address for tax purposes. If gains are not subject to withholding, the tax return shall be filed at the address for tax purposes of the custodian or administrator of the assets or rights or, failing that, the head office of the tax authorities in Madrid.

However, the Central Unit for Management of Large Companies at the National Inspection Office shall be the competent authority for tax returns filed by large companies, as shall the corresponding Regional Units for Management of Large Companies when responsibility is assigned to them. Said Regional Units shall likewise be the competent authority for returns filed by taxpayers when, in accordance with the aforementioned guidelines, the withholding party or jointly and severally liable party that determines the place where the return should be filed is a tax obligor for which the aforementioned Units are responsible.

- **For paying tax or applying for a refund:**

- Payment of tax liabilities shall be made as follows:

The tax return may be filed (regardless of whether or not it bears the corresponding identification labels) and payment may be made at any collaborating institution (bank, savings bank or credit union) authorized to handle tax collection in Spain, including branches and subsidiaries abroad that are authorized by the Head of the Tax Collection Department.

- Tax returns applying for refunds or without any liability to pay shall be filed at the competent branch of the tax authorities, in accordance with the foregoing guidelines.

- **Filing deadlines:**

The deadlines for filing tax returns are as follows:

-No refund returns:

- In general, one month after the date the declared income is accrued.
- Returns declaring Income attributed from urban real-estate ownership shall be filed between 1 January and 30 June after said income is accrued.

Non-resident taxpayers whose assets that are taxable in Spain consist exclusively of one home may file a joint tax return (form 214) pertaining to both the wealth tax (Impuesto sobre el patrimonio), corresponding to the ownership of said home, and the income tax (IRNR) from the income attributable corresponding to the ownership of said home.

This tax return may be filed during the calendar year following the year to which the return refers.

- Returns where refunds are applied for may be filed at the end of the period to which the return refers, during which the withholdings at source or tax paid in advance for which refund is requested take place.

The corresponding deadlines are as follows:

a) If the application for refund corresponds to a double-taxation agreement (Appendix I), except for the case indicated in Point b) below:

- Four years in the case of income accrued after 1 January 2003, unless the tax authorities establish a different term owing to lack of reciprocity.
- Two years in the case of income accrued before 31 December 2002.

b) If the application for refund corresponds to a double-taxation agreement and said agreement is developed by an order that affects the income in question (provided that said order is in force at the time of accrual), the deadline shall be the term established in said order.

c) Four years in all other cases.

Joint tax returns: Form 215

This form makes it possible to group together several incomes generated within the same calendar quarter by one or more taxpayers.

Said tax return shall not include the following kinds of income:

- Income whose tax base is the difference between the gross income and certain expenses.
- Income from urban real-estate property.

• Filing deadlines:

Within the first 20 calendar days of April, July, October and January.

For tax returns in which a refund is applied for, the deadlines are the same as those indicated for Form 210.

• Place for filing tax returns and paying tax:

The place for filing tax returns and paying tax is the same as that indicated for Form 210.

TAXATION OF THE MOST USUAL KINDS OF INCOME OBTAINED BY NON-RESIDENT TAXPAYERS WITHOUT AN PE

Income from employment

In general, income earned by non-residents for work carried out in Spain shall be subject to tax on the full amount at the general tax rate of 25%.

• Special cases:

- A rate of 8% shall be applicable to income earned by individuals who are non-residents of Spain (provided they are not liable to pay IRPF) and employed by Spanish diplomatic missions and consulates abroad, so long as specific regulations contained in international treaties to which Spain is a party are not applicable.

However, if work is carried out entirely abroad and the income obtained by the aforementioned individuals is subject to personal income tax in another country, the income shall not be deemed to be obtained in Spain and shall therefore not be subject to IRNR.

- A rate of 2% shall be applicable to income earned by non-resident individuals in Spain by virtue of specific-duration employment contracts for foreign seasonal workers, in accordance with Spanish labour regulations.

Income from economic activities

In the case of income from economic activities carried out in Spain by non-residents without an PE, the tax base shall be calculated based on the difference between the gross income and the following expenses:

- Staff costs
- Cost of supplies
- Utilities

A general rate of 25% shall be applicable to the resulting tax base. Income from economic activities shall be deemed to include income from services rendered, from freelance professional activities and artistic and sports activities.

Income from real-estate property

Regardless of whether or not the real-estate property is leased out, income from said property shall be subject to IRNR. However, the tax treatment varies depending on whether or not the property is leased.

- **Unleased urban property**

Non-resident taxpayers who own urban property that is used by the owner but not for economic activities, that is transferred free of charge or is unoccupied shall be liable to pay IRNR. The tax is based on the estimated income of 1.1% of the property's cadastral value (or 2% if the cadastral value has not been subject to revision or modification since 1 January 1994) and the applicable tax rate is 25%.

- **Leased or subleased property**

The full amount received from the lessee for all purposes shall be taken into account. Said amount shall include, where applicable, any assets leased with the property, but shall exclude VAT and no deductions of expenses shall be made.

If the property is only leased for part of the year, the income shall be calculated in accordance with the previous paragraph for the months it is leased. The income for the remaining months shall be calculated proportionally based on 1.1% (or, where applicable, 2%) of the cadastral value.

The applicable tax rate is the general rate of 25%.

When premises are set up in Spain and used exclusively for the management of a property leasing activity, whose staff have a full-time employment contract, the activity carried out on said premises shall be understood to be a business run

through an PE and shall be subject to tax as per the regulations indicated in the section on Income Obtained through a Permanent Establishment (PE).

Income from dividends and interest

Non-residents of Spain who obtain dividends or interest paid by a resident individual or public or private body corporate in Spain shall be subject to IRNR in Spain. When an agreement is applicable, the relevant tax rate shall be lower than the general rate. Furthermore, interest received by residents of an EU Member State shall be exempt from tax, provided said interest is not obtained through a tax haven.

Interest deriving from investments in public debt (except when obtained through a tax haven) and yields of non-residents' bank accounts shall likewise be exempt from tax.

- **Tax base:**

Full amount of said dividends or interest.

- **Tax rate:**

In general, the rate of 15% shall be applicable as from 1 January 2003. For residents of a country with which an agreement exists, the tax rate shall be the rate established in said agreement.

Pensions

When residents abroad receive a pension paid by a Spanish resident, the full amount of the pension shall be subject to Spanish tax, in accordance with the following scale:

Annual pension --- Up to €	Taxable income --- €	Rest of pension --- Up to €	applicable rate --- %
0.00 9,616.19 15,025.30	0.00 769.30 2,392.03	9,616.19 5,409.11 Remainder	8% 30% 40%

For example:

J.C.G., who is a resident of Paraguay, receives a retirement pension from the Spanish Social Security, the full monthly amount of which is €901.52. He is paid this amount 12 times a year.

The tax payable by said taxpayer is calculated as follows:

1. The annual pension to which the tax scale is applicable is $€901.52 \times 12 = €10,818.24$.

2. The tax scale is applied as follows:

Up to €9,616.19 x 8% €769.30

Remainder €1202.05 (10,818.24 – 9,616.19) x 30% €360.62 x 30% = €360.62

Tax liability 1,129.92

3. The mean tax rate (TMG) is calculated as follows:

$TMG = (1,129.92 \div 10,818.24) \times 100 = 10.44\%$

4. The tax applicable to the monthly pension is thus as follows:
 $€901.52 \times 10.44\% = €94.12$

N.B.: Because this income is subject to and not exempt from IRNR, the institution paying the pension (the Social Security), as the withholding party, shall withhold an amount equivalent to the tax due from the taxpayer. In this case, the full pension (€901.52) would be multiplied by 10.44% and the resulting tax (€94.12) would be deducted, leaving a net pension of €807.40.

Capital gains from the sale of real-estate property

Capital gains from the sale of real-estate property is subject to tax.

In general, capital gains are determined by calculating the difference between the conveyance value (price at which a property is sold) and the acquisition value (price at which the property was originally purchased).

The acquisition value shall be made up of the actual price paid for the property, plus any expenses and taxes inherent to the acquisition paid by the current seller at the time he/she purchased the property. Depending on the year of acquisition, this value shall be modified by applying certain updating coefficients established every year in the Spanish Budget Act. The regulatory depreciation amounts applied shall be deducted from the amount thus calculated, when applicable, and at least the minimum depreciation shall be calculated in all cases. Said depreciation amounts shall be updated in accordance with the corresponding year.

The conveyance value shall be the actual price at which the sale is made, minus any expenses and taxes inherent to the conveyance paid by the seller.

The conveyance value shall be the actual price at which the sale is made, minus any expenses and taxes inherent to the conveyance paid by the seller.

The difference between the conveyance value and the acquisition value thus calculated shall be the capital gains subject to tax.

However, if the property was acquired by an individual before 31 December 1994, the calculated capital gains shall be reduced by 11,11% per year for each year after the second year the property has belonged to said individual. This time shall be calculated based on the number of years between the acquisition date and 31 December 1996 and shall be rounded up. The taxable gains may then be determined by applying the percentages in the following table to the previously calculated capital gains:

Number of years up to 31 December 1996	(%)
1	100
2	100
3	88,89
4	77,78
5	66,67
6	55,56
7	44,45
8	33,44
9	22,23
10	11,12
More than 10	0

• **Tax rate:**

- A rate of 35% shall be applicable to the tax base thus calculated.

• **Tax form:**

- Form 212.

When the property conveyed is owned jointly by a married couple in which both spouses are non residents, a single tax return may be filed.

• **Filing deadline:**

- Within the 3 months after the purchaser's deadline for paying the withholding tax (said deadline being one month from the date of sale)

- **Place for filing tax returns:**

- The offices or branch of the tax authorities corresponding to the location of the property.

Withholdings at source

The party acquiring the real-estate property, regardless of whether or not said party is a resident of Spain, is obliged to withhold 5% of the agreed sales price and pay it to the tax office. For the seller, said withholding shall be deemed payment at source of the capital-gains tax corresponding to the conveyance of the property. The purchaser shall therefore provide the non resident seller with a copy of Form 211 (by means of which the withholding is paid to the tax office) so the seller can deduct said withholding from the tax liability resulting from the capital-gains tax return. If the amount withheld is higher than the tax amount to be paid, refund for the excess may be applied for.

However, in the case of individuals, if more than 10 years elapsed between the date the property was originally purchased or the latest reforms were made to it and 31 December 1996, no capital gains shall be payable and there shall be no obligation to file a capital-gains tax return. In this case, there shall consequently be no obligation to withhold and pay the 5% withholding tax.

- **Filing deadline:**

- Within 1 month after the date the property is sold.

- **Tax Form:**

- Form 211.

Refund of excess withholdings

In the event of capital losses or if the amount withheld is higher than the actual tax liability, refund of the excess withheld may be applied for by means of Form 212. The refund will be made by bank transfer to the account indicated on said form.

5-SPECIAL TAX RATE ON THE REAL-ESTATE PROPERTY OF NON-RESIDENT BODIES CORPORATE

In general, non-resident bodies corporate who own or possess in Spain, through any legal means, real-estate property or real rights they enjoy on said property, are subject to a special IRNR rate.

However, the special tax rate shall not be applicable to:

- 1) Foreign states, public institutions or international organizations (in this case, they are exempt from presenting a tax return for the special tax rate).
- 2) Bodies corporate with the right to apply a double-taxation agreement containing a clause on the exchange of information, with certain prerequisites.
- 3) Bodies corporate that continuously or habitually carry out economic operations in Spain other than the possession or rental of real estate.
- 4) Companies that are listed on officially recognized secondary securities markets. This shall also be applicable when ownership is held indirectly through a body corporate with the right to apply an international double-taxation agreement containing a clause on the exchange of information.
- 5) Non-profit organizations of a cultural or charitable nature.

Tax base and tax rates

The tax base shall usually be the cadastral value of the real-estate property. The tax rate is 3%.

Tax form, deadline and place for filing tax

Returns

Form 213 is used for filing these tax returns. Returns shall be filed during the month of January following the date the tax becomes due, which is 31 December each year.

Tax Return Result	Place for Filing Tax Return
Positive (payment due)	The tax form, with or without identifying labels, may be filed and payment may be made at any collaborating institution authorized to handle tax collections (banks, savings banks or credit unions) in Spain and their branches and subsidiaries located abroad that are authorized by the Head of the Tax Collection Department
Zero liability (negative)	In this case, the tax return shall be filed, either in person or by registered mail, at the offices or branch of the tax authorities responsible for the area in which the real-estate property is located.

6-DOUBLE-TAXATION AGREEMENTS

The tax system analysed thus far is that established in general terms by Spanish legislation. If the taxpayer is a resident of a country with which Spain has signed a convention for the avoidance of double taxation, he/she shall be bound by the terms thereof: in some cases, a lower tax rate may be applicable and in others, under certain circumstances, income may not be liable for taxation in Spain. If income is not liable for taxation in Spain or is taxed at a lower rate, the taxpayer shall certify his/her residence in the country with which Spain has an agreement by presenting a residence certificate issued by the tax authorities of the country in question.

KINDS OF INCOME

Without prejudice to the terms of each individual agreement, most agreements treat the different kinds of income as follows:

- **Corporate profits**

Corporate profits can only be liable for taxation in the taxpayer's country of residence, unless they are obtained through a permanent establishment (EP), in which case they shall be taxed in Spain.

- **Professional activities**

Corporate profits can only be liable for taxation in the taxpayer's country of residence, unless they are obtained through a permanent establishment (PE), in which case they shall be taxed in Spain.

- **Artistic and sports activities**

Income from artistic and sports activities carried out in Spain is generally taxed in Spain, although there are differences in the terms of the individual agreements with respect to these activities.

- **Income from real-estate property**

The agreements signed by Spain stipulate that responsibility for taxing income from real-estate property lies with the countries where the real estate is located. Income from real estate located in Spain is therefore taxed in accordance with Spanish law.

- **Dividends, interest and royalties**

The system of shared taxation between Spain and the country where the taxpayer is a resident is followed. Spain therefore has the right to tax this income, but this right is limited to the rate stipulated in each agreement (Appendix II).

- **Income from work as an employee**

Income from work as an employee in Spain is generally taxed in Spain, unless the following three conditions are met: the non-resident does not live in Spain for more than 183 days during the tax year in question; the earnings are paid by a non resident employer; and these earnings are not received through any PE or established base the employer has in Spain.

- **Members of Boards of Directors**

Shares, attendance royalties and similar earnings obtained by the taxpayer by virtue of being a member of the Board of Directors of a resident company in Spain are liable for taxation in Spain.

- **Pensions**

Pensions are deemed to be earnings as a result of prior employment and are treated differently depending on whether they are public or private pensions. A public pension is understood to be a pension received as the result of prior public employment, i.e. as a result of services rendered to a state, a political subdivision thereof or a local agency. A private pension is understood to be any other kind of pension received as a result of prior private employment.

- In the case of private pensions, most agreements stipulate that taxation rights lie exclusively with the country where the taxpayer is a resident.
- In the case of public pensions, said right is held by the country where the pensions originate rather than the country where the taxpayer is a resident, except in the case of some agreements, which stipulate that if the taxpayer holds the nationality of the country where he/she is a resident, said country holds the taxation rights.

Students

Money received by students to meet room and board, course and training expenses is not generally taxable if it comes from foreign sources.

Capital-gains tax

The right to apply capital-gains tax usually lies with the country of residence, except for capital gains arising from the transfer of real-estate property located in Spain, which is taxed in Spain.

7-OTHER INTERVENING PARTIES

Besides the taxpayer, the following parties, among others, play an important role in the taxation of non-residents:

- The representative
- Parties that are jointly and severally liable
- The withholding party

THE REPRESENTATIVE

Non-resident taxpayers are only obliged to appoint a representative in the following cases:

- When they operate through a permanent establishment (PE).
- When they provide services, technical assistance, installation and assembly work deriving from engineering contracts and, in general, when they carry out economic activities or operations in Spain without an PE.
- When required to do so by the tax authorities.

However, taxpayers may voluntarily appoint a representative as a means of communication with the tax authorities.

Representatives of non-resident taxpayers operating through an PE in Spain shall be jointly and severally liable for ensuring said taxpayers' tax dues are paid.

PARTIES THAT ARE JOINTLY AND SEVERALLY LIABLE

The following parties shall be jointly and severally liable for ensuring the payment of tax dues corresponding to income they have paid or revenue from assets or rights entrusted to them:

- The payer of income accrued without an PE.
- The custodian or administrator of assets or rights not corresponding to an PE.

However, the payer shall not be jointly and severally liable when the obligation to withhold tax at source is applicable.

THE WITHHOLDING PARTY

The withholding party shall be obliged to withhold tax from the non-resident and pay it to the tax authorities.

Parties obliged to withhold tax

Among others, the following parties are obliged to withhold or pay tax on the revenue subject to Non-Resident Income Tax (IRNR) that they pay:

- Resident bodies corporate in Spain (including entities in which tax on profit is payable by the members).
- Resident individuals in Spain that carry out economic activities.
- IRNR taxpayers with an PE.
- IRNR taxpayers without an PE, with respect to any earnings they pay for work.

Income subject to withholding tax

In general, all income subject to IRNR is subject to withholding tax.

Exceptions to the obligation to withhold tax

There is no obligation to withhold tax on the following income, among others:

- Exempt income (see the section on Exemptions).
- Income that is exempt by virtue of a double taxation agreement.
- Income paid to IRNR taxpayers without an PE when proof is provided that tax has been paid.

Non-resident taxpayers have the right to declare and pay their tax. If proof of this fact is provided, there will be no obligation to withhold tax on:

- Capital gains. There shall, however, be the obligation to withhold tax on:
 - Winnings from participation in games, competitions, raffles or random number combinations.
 - Conveyance of real-estate property located in Spain.
 - Income from transfers or sales of shares or certificates representing shareholdings in the share capital or assets of collective investment institutions.

Withholding amount

The amount withheld shall be equivalent to the actual IRNR tax due.

The withholding party shall not take the following expenses or deductions into account (although they are applicable for calculating the final taxable amount): staff costs, cost of supplies and utilities in the case of economic activities without an PE, the special tax on real-estate property of non resident bodies corporate, and deductions for charitable contributions.

Obligation to file a tax return

The withholding party shall file a tax return and pay the corresponding amount to the tax authorities using Form 216. Said party shall also file an annual summary on Form 296.

8-SPECIAL PROCEDURE FOR DETERMINING INCOME TAX WITHHOLDINGS (IRPF) WHEN CHANGING COUNTRY OF RESIDENCE

This voluntary procedure may be followed by employed individuals to anticipate the effects of a change of residence on tax withholdings on their earned income. In this case, the payers shall be residents or have a permanent establishment (PE) in Spain.

- Employed individuals who do not pay IRPF but will do so upon moving to Spain may inform the Spanish tax authorities of this circumstance by means of Form 147.

For this procedure to be applicable, the existence of objective employment data shall be accredited, whereby it is anticipated that the employee will live more than 183 days in Spain during the calendar year in which the move takes place or, failing that, the following year.

- Employed individuals who do not pay Non-Resident Income Tax (IRNR) but will do so as a result of their being sent abroad by their employer may inform the Spanish tax authorities of this circumstance by means of Form 247.

For this procedure to be applicable, the existence of objective employment data shall be accredited, whereby it is anticipated that the employee will live more than 183 days in another country during the calendar year in which the move takes place or, failing that, the following year.

Employees taking advantage of this procedure shall not be exonerated from accrediting their new tax residence to the tax authorities.

After receiving Form 147 or 247 and the documentation presented, the tax authorities shall issue and provide the employee with a certificate to be given to the employer, so the employer may duly withhold tax in accordance with the regulations governing IRPF, in the case of Form 147, and IRNR, in the case of Form 247, as from the date indicated on said certificate.

**APPENDIX I. COUNTRIES WITH DOUBLE-TAXATION
AGREEMENTS WITH SPAIN**

EUROPEAN UNION		
COUNTRY	DATE	Agreement Date Published in Official Spanish State Gazette (BOE)
Germany	05-12-1966	08-04-1968
Austria ⁽¹⁾	20-12-1966	06-01-1968
Belgium ⁽¹⁰⁾	14-06-1995	04-07-2003
Czech Republic	08-05-1980	14-07-1981
Denmark ⁽⁶⁾	03-07-1972	28-01-1974
Slovakia	08-05-1980	14-07-1981
Slovenia	23-05-2001	28-06-2002
Finland ⁽²⁾	15-11-1967	11-12-1968
France	10-10-1995	12-06-1997
Greece	04-12-2000	02-10-2002
Hungary	09-07-1984	24-11-1987
Ireland ⁽³⁾	10-02-1994	27-12-1994
Italy ⁽³⁾	08-09-1977	22-12-1980
Lithuania	22-07-2003	02-02-2004
Luxembourg	03-06-1986	04-08-1987
Netherlands	16-06-1971	16-10-1972
Poland	15-11-1979	15-06-1982
Portugal ⁽³⁾	26-10-1993	07-11-1995
United Kingdom ⁽⁴⁾	21-10-1975	18-11-1976
Sweden	16-06-1976	22-01-1977

REST OF EUROPE		
COUNTRY	DATE	Agreement Date Published in Official Spanish State Gazette (BOE)
Bulgaria	06-03-1990	12-07-1991
Iceland	22-01-2002	18-10-2002
Norway ⁽⁷⁾	06-10-1999	10-01-2001
Romania	24-05-1979	02-10-1980
Russian Federation	16-12-1998	06-07-2000
Turkey ⁽³⁾	05-07-2002	19-01-2004
Former USSR ⁽⁵⁾	01-03-1985	22-09-1986
Switzerland	26-04-1966	03-03-1967

AFRICA		
COUNTRY	DATE	Agreement Date Published in Official Spanish State Gazette (BOE)
Morocco Tunisia	10-07-1978 02-07-1982	22-05-1985 03-03-1987

AMERICA		
COUNTRY	DATE	Agreement Date Published in Official Spanish State Gazette (BOE)
Argentina	21-07-1992	09-09-1994
Bolivia	30-06-1997	10-12-1998
Brazil ^{(3) (9)}	14-11-1974	31-12-1975
Canada	23-11-1976	06-02-1981
Chile	07-07-2003	02-02-2004
Cuba ⁽⁸⁾	03-02-1999	10-01-2001
Ecuador	20-05-1991	05-05-1993
United States ⁽³⁾	22-02-1990	22-12-1990
Mexico	24-07-1992	27-10-1994
Venezuela	08-04-2003	15-06-2004

ASIA		
COUNTRY	DATE	Agreement Date Published in Official Spanish State Gazette (BOE)
China	22-11-1990	25-06-1992
South Korea ⁽³⁾	17-01-1994	15-12-1994
Philippines ⁽³⁾	14-03-1989	15-12-1994
India	08-02-1993	07-02-1995
Indonesia	30-05-1995	14-01-2000
Israel	30-11-1999	10-01-2001
Japan ⁽³⁾	13-02-1974	02-12-1974
Thailand ⁽³⁾	14-10-1997	09-10-1998

OCEANIA		
COUNTRY	DATE	Agreement Date Published in Official Spanish State Gazette (BOE)
Australia ⁽³⁾	24-03-1992	29-12-1992

(1) Articles 2, 11 and 24 of this agreement were modified by the protocol signed on 24 February 1995 and published in the BOE on 2 October 1995.

(2) Modified by exchange of notes on 27 April 1990 (published in the BOE on 28 July 1992).

(3) Not applicable to capital tax.

(4) Modified by exchange of notes on 13 December 1993 and 17 June 1994 (published in the BOE on 25 May 1995).

(5) Applicable to Ukraine, Belarus, Moldavia, Georgia, Armenia, Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan and Kyrgyzstan.

(6) Articles 2, 3, 9, 10, 14, 17, 19, 22, 24 and 25 of this agreement were modified and Article 29 was eliminated by means of the protocol signed on 17 March 1999 (published in the BOE on 17 May 2000).

(7) The provisions entered into effect as from 1 January 2001, after which date the agreement signed on 25 April 1963 was no longer applied.

(8) Modified by exchange of notes on 9 November 1999 and 30 December 1999 (published in the BOE on 10 January 2001).

(9) See the Resolution dated 22 September 2003 (published in the BOE on 2 October 2003) on the interpretation of different points in the agreement.

(10) The provisions entered into effect as from 1 January 2004, after which date the agreement signed on 24 September 1970 was no longer applied.

APPENDIX II. APPLICABLE TAX RATES IN DOUBLE-TAXATION AGREEMENTS

Country	Dividends			Interest	Fees
	General	Parent-Subsidiary			
		Companies % minimum	Shareholding Rate		
Germany	15	25	10	10	5
Argentina	15	25	10	0/12,5	3/5/10/15
Australia	15	-	-	10	10
Austria	15	50	10	5	5
Belgium	15	25	0	0/10	5
Bolivia	15	25	10	15	15/0
Brazil	15	-	-	10/15	10/15
Bulgaria	15	25	5	0	0
Canada	15	-	-	15	10
Czech Republic	15	25	5	0	5
Chile	10	20	5	5/15	5/15
China	10	-	-	10	10
South Korea	15	25	10	10	10
Cuba	15	25	5	10	5
Denmark	15	-	0 ⁽¹⁾	10	6
Ecuador	15	-	-	5/10	5/10
Slovakia	15	25	5	0	5
Slovenia	15	25	5	5	5
United States	15	25	10	10	5/8/10
Philippines	15	10	10	10/15	10/15/20
Finland	15	25	10	10	5
France	15	10	0	10	0/5
Greece	10	25	5	0/8	6
Hungary	15	25	5	0	0
India	15	-	-	15	10/20
Indonesia	15	25	10	10	10
Ireland	15	25	0	0	5/8/10
Iceland	15	25	5	5	5
Israel	10	-	-	5/10	5/7
Italy	15	-	-	12	4/8
Japan	15	25	10	10	10
Lithuania	15	25	5	0/10	5/10
Luxembourg	15	25	10	10	10
Morocco	15	25	10	10	5/10
Mexico	15	25	5	10/15	10
Norway	15	25	10	0/10	5
Netherlands	15	25/50	5/10	10	6
Poland	15	25	5	0	10
Portugal	15	25	10	15	5
United Kingdom	15	10	10	12	10
Romania	15	25	10	10	10
Russian Federation	5/10/15 ⁽¹⁾	-	-	5	5
Former USSR	18	-	-	0	5
Sweden	15	50	10	15	10
Switzerland	15	25	10	10	5
Thailand	10	-	-	10/15	5/8/15
Tunisia	15	50	5	5/10	10
Turkey	15	25	5	10/15	10
Venezuela	10	25	0	0/4,95/10	5

The above figures are percentages. (1) See Article 10 of the agreement.

APPENDIX III.TAX HAVENS ⁽¹⁾

1. Andorra
2. Netherlands Antilles
3. Aruba
4. Bahrain
5. Brunei
6. Cyprus
7. United Arab Emirates
8. Gibraltar
9. Hong Kong
10. Anguilla
11. Antigua and Barbuda
12. The Bahamas
13. Barbados
14. Bermuda
15. Caiman Islands
16. Cook Islands
17. Dominica
18. Granada
19. Fiji
20. Guernsey and Jersey (Channel Islands)
21. Jamaica
22. Malta
23. Falkland Islands
24. Isle of Man
25. Mariana Islands
26. Mauritius
27. Montserrat
28. Nauru
29. Solomon Islands
30. San Vicente and the Grenadines
31. Santa Lucia
32. Trinidad and Tobago
33. Turks and Caicos Islands
34. Vanuatu
35. British Virgin Islands
36. US Virgin Islands
37. Jordan
38. Lebanon
39. Liberia
40. Liechtenstein

41. Luxembourg, with respect to income earned by the companies referred to in Paragraph 1 of the protocol attached to the double-taxation agreement of 3 June 1986.

42. Macao

43. Monaco

44. Oman

45. Panama

46. San Marino

47. Seychelles

48. Singapore

(1) Any of the countries or territories referred to in this Appendix that sign an agreement for the exchange of tax data or a double-taxation agreement that includes a clause on data exchange shall cease to be deemed tax havens as from the date said agreements enter into force (Article 2 of Royal Decree 1080 of 5 July 1991, which identified the countries or territories deemed to be tax havens, as per the wording given in Article 2 of Royal Decree 116 of 31 January 2003, published in the BOE on 1 February 2003).

APPENDIX IV. APPLICABLE REGULATIONS

- Royal Decree Law 5/2004 of 5 March 2004, which approved the revised text of the Non-Resident Income Tax Law (BOE of 12 March 2004).
- Royal Decree 326/1999 of 26 January 1999, which approved the Non-Resident Income Tax Regulations (BOE of 27 February 1999).
- Royal Decree 1080/1991 of 5 July 1991, which identified the countries or territories deemed to be tax havens (BOE of 13 July 1991).
- Order of 9 December 1999, which approved Tax Return Form 216, in pesetas and euros, to be used for reporting income, tax withheld at source and tax paid in advance for certain income subject to Non-Resident Income Tax (IRNR) obtained by taxpayers liable to pay said tax without a permanent establishment (PE); Form 296, the annual summary of tax withheld at source and tax paid in advance corresponding to said income; and certain provisions regarding non-residents' bank accounts (BOE of 16 December 1999).
- Order HAC/3626/2003 of 23 December 2003, which approved IRNR Tax Return Forms 210, 211, 212, 213 and 215, to be used for reporting income obtained without an PE, tax withheld when buying real-estate property from non-residents without an PE and the special tax on the real-estate property of non-residents; and Form 214, a simplified Non-Resident Capital and Income Tax form. The general conditions and procedures for filing said returns via the Internet are also established, as are other regulations for non-resident taxation (BOE of 30 December 2003).
- Order of 12 July 2000, which approved the form for applying for the optional system regulated by Article 33 of Law 41 of 9 December 1998 on IRNR and tax regulations for individuals who are residents of other EU Member States, and stipulated the place, form and deadline for filing said returns (BOE of 14 July 2000).
- Order of 13 April 2000, which established the procedure for withholding tax at the corresponding rate in each case, or the exclusion of withholdings on interest and dividends from negotiable securities obtained by IRNR taxpayers without an PE, except for certain public-debt issues (BOE of 18 April 2000).
- Order HAC/921/2002 of 24 April 2002, which approved Form 291 for providing information on the yields of the non-resident bank accounts of IRNR taxpayers without an PE and the physical and logical designs for presenting said information in computer-readable form, and established the procedure for filing it by telematic means (BOE of 27 April 2002).
- Order HAC/117/2003 of 31 January 2003, which approved the forms for notifying the tax authorities of a change in residence to the effects of withholding tax on income from employment, and regulated the method, place and deadline for filing said forms (BOE of 1 February 2003).

(June 2004)