

# Legal Structures and Tax Systems for “*Autónomos*” and Companies.

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## 1. INTRODUCTION TO THE TAX SYSTEMS: EACH LEGAL STRUCTURE HAS ITS TAXES

### 1.1.- “Autónomo”

Person who performs an economic activity (business) for a profit, in a regular, personal and direct way.

**As a person, every “Autónomo” must pay the IRPF**

**Impuesto sobre la Renta de las Personas Físicas**

**This is the Income Tax for Natural Persons**

**As a business: every “Autónomo” «must pay\*» the IVA**

**Impuesto sobre el Valor Añadido**

**This is the Value Added Tax**

(\*)Businesses do not «pay» this tax, they collect it for Hacienda.

### 1.2.- Partnership

It is a community of two or more persons that commit to share money, goods or industry in order to share the results and/or the benefits.

We must difference two kinds of activities: professional and commercial

#### **PROFESSIONAL ACTIVITY**

**As a member of this community of persons:**

**Every person must pay the IRPF (in proportion to their participation)**

**Impuesto sobre la Renta de las Personas Físicas**

**This is the Income Tax for Natural Persons**

**As a business:**

**The partnership (not the persons) «must pay\*» the IVA**

**Impuesto sobre el Valor Añadido**

**This is the Value Added Tax**

(\*)Businesses do not «pay» this tax, they just collect it for Hacienda.



## COMMERCIAL ACTIVITY

The partnership must pay the IS (Company Tax)

Impuesto de Sociudades

This is the Income Tax for Companies

As a business:

The partnership «must pay\*» the IVA

Impuesto sobre el Valor Añadido

This is the Value Added Tax

(\*)Businesses do not «pay» this tax, they just collect it for Hacienda.

### 1.3.-Company

Business association which has the character of a legal person, distinct from its officers and shareholders.

As a Legal person, every Company must pay the IS

Impuesto sobre Sociudades

This is the Company Tax

As a business:

The Company «must pay\*» the IVA

Impuesto sobre el Valor Añadido

This is the Value Added Tax

(\*)Businesses do not «pay» this tax, they collect it for Hacienda.

**Summary**

“Autónomo”	Partnership	Company
IRPF	If professional activities : IRPF (each member)  If commercial activities: IS (the partnership)	IS
IVA	IVA (the Partnership)	IVA

**2. “AUTÓNOMO”****2.1.-Why shall I become an “Autónomo”? : management for an “Autónomo”**

“Autónomo” is the most simple structure for a business.

**Why?** Because my structure can be just myself.

The setting up procedures are very simple and less costly than for other legal structures

My accountancy is also very simple:

- Log book of invoices issued.
- Log book of invoices received.
- Log book of Investments.
- Log book of fund provisions.

**2.2.1.-Unlimited Liability**

This is probably the main problem for an “Autónomo”.

An “Autónomo” is **liable** for the debts of the activity with **business and personal assets**.

**2.2.2.-Social Security**

“Autónomos” must pay their own social security:

Minimum quotes for entrepreneurs:

**First 12 months: 50€/month (-80%)**

**Months 13th to 18th: 137€/month (-50%)**

**Months 19th to 24th: 192€/month (-30%)**



**ALSO:**

People less than 30 years and women less than 35 years can also benefit from additional bonus in the payment of the Social Security quote:

**Months 25th to 36th: 192 €/month**

**Over 36th month: 274,10 €/month**

SS quotes are calculated as a 29,8% over a contribution base that can range between 919,80€ and 3.642,00€.

If you only work as “Autónomo” several days a month, the calculation will be proportional.

**BUT**, you can register and erase as “Autónomo” up to 3 times a year, the fourth time you will be charged the whole month.

**ATTENTION!!**

When you are the “Administrador” of a company, you must be “Autónomo” and your minimum contribution base will be 1.198,08€, so your minimum SS quote will be 357€/month with no option to any bonus.

Social Security Benefits

- Healthcare
- Temporary Disability
- Maternity / Risks in pregnancy
- Permanent Disability
- Retirement
- Provision for death and survival
- Provision for cessation of activity or stop the self-employed

**3. PARTNERSHIP****3.1.-Why shall I create a Partnership?: management for a Partnership**

It is a community of two or more persons that commit to share money, goods or industry in order to share the results and/or the benefits.

It's a Social Company, not a Commercial one, so it's not submitted to same rules as a SL. The requirements and cost of creation are lower than to a SL. And it has NO legal personality unless it's created before a Notary.

Before the customers we have the appearance of a Company: we have a NAME, a NIF and we invoice with these elements.

BUT the management is completely different as they liquidate all incomes and expenses in proportion to the participations of the partners in the community who include them in their own accountancy and pay the IRPF. It's much simpler to manage than a Company as we don't have its legal obligations.

**3.2.-Which will be my duties?****3.2.1.- Unlimited Liability for Partners**

Partners have unlimited and personal liability and must respond with their own assets for the debts of the partnership, in case the assets of the community weren't enough to cover them.

**3.2.2.- Social Security**

The partners of a Partnership can be:

**Funding partners:** contribute with assets or money. They don't need to be “Autónomos”.

**Working partners:** contribute with work or industry. **They need to be “Autónomos”.**

## 4. -INCOME TAX FOR “AUTÓNOMOS” AND PROFESSIONAL PARTNERSHIPS IRPF (IMPUESTO SOBRE LA RENTA DE LAS PERSONAS FÍSICAS)

**4.1.-What is the IRPF?**

The IRPF (Individual Income Tax) is a direct and progressive tax applied on the incomes obtained during a calendar year by individuals residing in Spain. Therefore we can say that the IRPF is the tax used to regulate our overall wealth both individual and from our business activity.

Direct: Taxes all our assets.

Progressive: The more we have, the more we pay.

Incomes: Universal Incomes, all the incomes around the world.

Calendar year: January 1st – December 31st.

Residing in Spain: For residents in Spain.

**4.2.-Who must pay this Tax?****Spanish Residents:**

We are Spanish residents in any of the following circumstances:

- We reside in Spain for more than 183 days during the calendar year.
- We have in Spain the main center or base of our activities or economic interests directly or indirectly.
- If our not legally separated spouse and minor children who depend on us reside in Spain.

If we are **Non Residents** in Spain we won't pay the IRPF, **but** we will pay the Tax for Non Residents for the incomes obtained in Spain (IRNR: Impuesto de la Renta de No Residentes )



**4.3.-What is the Collection Calendar?**

<b>SPLIT PAYMENTS (FORM 130)</b>	
TERM OF ACTIVITY	TERM OF PAYMENT
1Q (1st Jan. -31st Mar.)	1st -20 <sup>th</sup> Apr.
2Q (1st Apr. -30th Jun.)	1st -20th Jul.
3Q (1st Jul. -30th Sep.)	1st -20th Oct.
4Q (1st Oct.-31st Dec.)	1st -30th Jan.
<b>ANNUAL LIQUIDATION (FORM 100)</b>	
1st Apr.-30th Jun the year after.	

**4.4.-Which are the Tax Rates?**

FOR SPLIT PAYMENTS: 20%

FOR ANNUAL LIQUIDATION:

<b>IRPF RATE TRANCHES</b>		
	NET BASE	TAX RATE
The first	12.450,00€	19%
The following	7.750,00€	24%
The following	15.000,00€	30%
The following	24.800,00€	37%
OVER 60.000,00€		45%



**EXAMPLE:**

NET BASE = 23.000,00€

IRPF RATE TRANCHES				
NET BASE FROM	TO	AMOUNT	TAX RATE 2016	TAX
0,00€	12.450,00€	12.450,00€	19%	2.365,50€
12.450,01€	20.200,00€	7.750,00€	24%	1.860,00€
20.200,01€	23.000,00€	2.800,00€	30%	840,00€
TOTAL TAX				<b>5.065,50€</b>
AVERAGE RATE			<b>22%</b>	

**4.5.-How do I calculate this Tax?****FOR SPLIT PAYMENTS: (FORM 130)**

<b>INCOMES</b>
- DEDUCTIBLE EXPENSES
= PROFIT
x TAX RATE 20%
<b>AMOUNT TO PAY</b>

**FOR ANNUAL LIQUIDATION: (FORM 100)**

<b>INCOMES</b>
- DEDUCTIBLE EXPENSES*
= Previous NET PROFIT
-5% Expenses difficult to justify (limit 2.000,00€)
-20% Entrepreneur 1 <sup>st</sup> year with profit and the following
<b>= TAXABLE BASE</b>
- PERSONAL CONSIDERATION REDUCTIONS*
<b>= NET BASE</b>
x TAX RATE 19% - 45%
- PERSONAL CONSIDERATION DEDUCTIONS*
- SPLIT PAYMENTS already paid
<b>AMOUNT TO PAY / OR RETURN</b>





**(\*)DEDUCTIBLE EXPENSES**

The Company Income Tax Regulation establishes some criteria that must be met for an expense to be deductible for tax purposes:

- It must be accounted for / registered in the relevant log
- It must be correctly allocated to the financial period
- It must be duly justified (invoice or equivalent document)
- In addition, there are also other expenses that can be considered deductible, such as personnel, consumables, external services, financial expenses, amortization, etc.

**(\*) PERSONAL CONSIDERATION REDUCTIONS**

Depending on our personal circumstances, we can benefit from some reductions on our Taxable Base:

- Individual: Personal minimum 5.550€/person
- Marriage only 5.550€/family (not per person as above) +3.400€/family
- Pension Plans
- Children Pension
- ...

**(\*) PERSONAL CONSIDERATION DEDUCTIONS**

Depending on our personal circumstances, we can benefit from some deductions on our Amount to Pay :

- Investment in New Companies
- Investment profit on the purchase of certain tangible fixed assets and investment property
- Housing Rental (only contracts signed before January 1st ,2015)
- Donations
- Maternity
- ...

**4.6.-How do I pay this Tax?**

- Indicate the IBAN of a bank account in Spain of our ownership
- We can present the Tax Return online
- We can present it in our Bank
- Split returns must be presented online

## 5. LIMITED LIABILITY COMPANY (SOCIEDAD LIMITADA)

### 5.1.-Why shall I become an Company?: management for a Company

A Company is much more complex structure for a business than “Autónomo”, and that may be appreciate by the customers as it generates confidence.

**Why?** It's not a matter of size (I can create a sole-owner Company), it's a matter of management as I must follow several rules and procedures:

- I must go before a Notary
- I must register the Company agreements in the Mercantile Registry.
- My accountancy must follow the Accountancy Regulations:

<ul style="list-style-type: none"> <li>• Ledgers and Financial Statements.</li> <li>• Book of Balances.</li> <li>• Daybook.</li> </ul>	<ul style="list-style-type: none"> <li>• Partners Book.</li> <li>• Minute Book.</li> </ul>
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### 5.2.-Which will be my duties?

#### 5.2.1.- Limited Liability for Partners

The partners are only liable for the debts of the Company with their contribution to the corporate capital, and not with their personal assets.

#### 5.2.2.- Unlimited Liability for the “Administrador”.

The Director will respond with his personal assets in case he doesn't develop the charge with “the diligence of a tidy proprietor and a faithful representative”.

The Director must act in **good faith** (ex. not having fake accountancy, or pay cash in hand, or register less sales, etc.) and follow the Law and the Articles of the Company

Remember: **ignorance of the law is no excuse compliance**



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## 6. INCOME TAX FOR COMPANIES AND COMMERCIAL PARTNERSHIPS IS (IMPUESTO DE SOCIEDADES)

### 6.1.-What is the IS?

The IS (Company Tax) is a direct tax applied on the incomes obtained during a accountable business term by Companies and other entities and organizations residing in Spain.

Direct: Taxes our profit.

Incomes: Universal Incomes, all the incomes around the world.

Calendar year: (generally) January 1st – December 31st.

Residing in Spain: For Companies **Residents** in Spain.

A Company is Spanish resident in any of the following circumstances:

- Incorporated according to the Spanish Laws.
- Company Address in Spain.
- Me main center or base of activities or economic interests directly or indirectly in Spain.

### 6.2.-Who must pay this Tax?

Legal Entities:

- Companies.
- Associations.
- Foundations ...

Other kind of organizations:

- Investment funds.
- Pension funds.
- Temporary joint ventures.
- ...

All of them based in Spain



**6.3.-What is the Collection Calendar?**

Considering the yearly calendar:

<b>ANNUAL LIQUIDATION (FORM 200)</b>
1st.-25th Jul the year after
<b>SPLIT PAYMENTS (FORM 202)</b>
<b>TERM OF PAYMENT</b>
1st -20th Oct. the year after
1st -20th Dec. the year after
1st -20th Apr. (...)

**6.4.-Which are the Tax Rates?**

**FOR SPLIT PAYMENTS: 18% over previous year’s tax amount**

**FOR ANNUAL LIQUIDATION:**

TYPE OF COMPANY	TAX RATE 2016
<b>GENERAL</b>	<b>25%</b>
<b>REDUCED SIZE &lt;5Million € &lt;25 employees</b>	<b>25%</b>
<b>NEW COMPANIES 1st year with positive results and the following year</b>	<b>15%</b>



**6.5.-How do I calculate this Tax?****FOR SPLIT PAYMENTS: (FORM 202)**

FIX FEE = 18% X previous year's tax amount

**FOR ANNUAL LIQUIDATION:(FORM 200)**

<b>ACCOUNTABLE RESULTS (31th Dec.)</b>
(+/-) CORRECTIONS *
<b>= FISCAL RESULT</b>
- NEGATIVE RESULTS
<b>=TAXABLE BASE</b>
x TAX RATE
<b>= TAX FEE</b>
- DEDUCTIONS AND BONUS*
- RETENTIONS
- SPLIT PAYMENTS
<b>=AMOUNT TO PAY/ RETURN</b>



**(\*) CORRECTIONS**

Differences between fiscal and accountancy concepts (amortizations, non-deductible expenses, etc.)

**(\*) DEDUCTIONS AND BONUS**

- For reinvesting benefits in the Company: 7%-12% of the investment.
- For investments to make the Company more ecological: 8% of the investment.
- For research and development and technological innovation (R + D + i): 25% of the investment.
- For investing in Spanish cinema and serial productions and life spectacles 20% of the investment.
- For creating employment:
  - 9.000€ -12.000€ per person/year for contracting people with disability between 33%-65%.
  - 3.000€ per person/year for contracting people under 30 years old.
- ...

**6.6.-How do I pay this Tax?**

- Indicate the IBAN of a bank account in Spain of our ownership
- **We must present this Declaration online**



## 7. IVA (VALUE ADDED TAX)

### 7.1.-What is the IVA?

The IVA is an indirect tax because we add it to the product or service that we offer to the client. Therefore, when we buy from our suppliers, they are also adding the IVA to the product we are purchasing.

Indirect: Taxes on consumption of goods and services.

The customers pay it in every purchase.

The businesses are the collectors of this Tax.

Goods and Services:

- Sales of goods and services.
- Purchases inside the EU.
- Importations

Calendar year: January 1st – December 31st.

Residing in Spain: Collectors are businesses residents in Spain.

### 7.2.-Who must pay this Tax?

The “Autónomos”, Partnerships and Companies must collect and deposit this Tax in the Public Treasury (HACIENDA)

### 7.3.-What is the Collection Calendar?

SPLIT PAYMENTS (FORM 303)	
TERM OF ACTIVITY	TERM OF PAYMENT
1Q (1st Jan. -31st Mar.)	1st -20 <sup>th</sup> Apr.
2Q (1st Apr. -30th Jun.)	1st -20th Jul.
3Q (1st Jul. -30th Sep.)	1st -20th Oct.
4Q (1st Oct.-31st Dec.)	1st -30th Jan.
ANNUAL LIQUIDATION (FORM 390)	
1st -30th Jan. the year after	



**7.4.-Which are the Tax rates?**

RATE		GOODS AND SERVICES
<b>SUPER-REDUCED</b>	<b>4%</b>	Bread, milk, fruits, vegetables, meat, fish, eggs, books, magazines, medicines...
<b>REDUCED</b>	<b>10%</b>	Hotel, transport, bars, restaurants, cinema, theatre, houses, plants, toilet paper, nappies ...
<b>GENERAL</b>	<b>21%</b>	Most of the goods and services: Tobacco, alcoholic drinks, zoo, toothpaste, shampoo, premises rental, e-books, ...

**7.5.-How do I calculate this Tax?****FOR QUARTERLY LIQUIDATION (FORM 303):**

<b>INCOMES</b>		
TAXABLE BASE	RATE	IVA
<b>EXPENSES</b>		
TAXABLE BASE		- IVA
RESULT OF THE TERM		
- NEGATIVE RESULTS OF PREVIOUS DECLARATIONS		
<b>RESULT</b>		
IF POSITIVE RESULT: DEPOSIT IT IN HACIENDA («we pay IVA»)		
IF NEGATIVE RESULT: COMPENSATE IN FUTURE DECLARATIONS		





<b>INCOMES</b>		
TAXABLE BASE <b>10.000,00€</b>	RATE <b>21%</b>	IVA <b>2.100,00€</b>
<b>EXPENSES</b>		
TAXABLE BASE <b>2.000,00€</b>		- IVA <b>420,00€</b>
		RESULT OF THE TERM <b>1.680,00€</b>
		- NEGATIVE RESULTS OF PREVIOUS DECLARATIONS <b>200,00€</b>
		<b>RESULT</b> <b>1.480,00€</b>
IF POSITIVE RESULT: DEPOSIT IT IN HACIENDA («we pay IVA»)		
IF NEGATIVE RESULT: COMPENSATE IN FUTURE DECLARATIONS		



**FOR ANNUAL DECLARATION (FORM 390):**

INCOMES				EXPENSES			
TAXABLE BASE		RATE	IVA	TAXABLE BASE		RATE	IVA
Q1 TAXABLE BASE		4%		Q1 TAXABLE BASE		4%	
Q1 TAXABLE BASE		10%		Q1 TAXABLE BASE		10%	
Q1 TAXABLE BASE		21%		Q1 TAXABLE BASE		21%	
Q2 TAXABLE BASE		4%		Q2 TAXABLE BASE		4%	
Q2 TAXABLE BASE		10%		Q2 TAXABLE BASE		10%	
Q2 TAXABLE BASE		21%		Q2 TAXABLE BASE		21%	
Q3 TAXABLE BASE		4%		Q3 TAXABLE BASE		4%	
Q3 TAXABLE BASE		10%		Q3 TAXABLE BASE		10%	
Q3 TAXABLE BASE		21%		Q3 TAXABLE BASE		21%	
Q4 TAXABLE BASE		4%		Q4 TAXABLE BASE		4%	
Q4 TAXABLE BASE		10%		Q4 TAXABLE BASE		10%	
Q4 TAXABLE BASE		21%		Q4 TAXABLE BASE		21%	

**7.6.-How do I pay this Tax?**

- Indicate the IBAN of a bank account in Spain of our ownership
- **We must present this Declaration online**



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## 8. HOW DO I BECOME AN “AUTÓNOMO”? PROCEDURE FOR BECOMING AN “AUTÓNOMO”

1º) Go to HACIENDA (Tax Office)

Fill **FORM 037** to inform that we are going to star up a business as “Autónomos”.

We have a term of 30 days before the beginning of the activity.

Remember to bring your passport, your NIE and a photocopy of both.

2º) Go to the SOCIAL SECURITY OFFICE

Fill **FORM M-TA0521/8** to inform that we are going to star up a business as “Autónomos” so we are going to pay our Social Security quotes.

We have a term of 30 days after the beginning of the activity.

Remember to bring your passport, your NIE and the FORM 036 that you've present before HACIENDA and a photocopy all these documents.

IN BARCELONACTIVA YOU CAN FIND ASSISTANCE TO START UP AS AUTÓMONO.  
GO TO THE OFICINA D'ATENCIÓ A LES EMPRESAS (OAE)

## 9. HOW DO I CREATE A PARTNERSHIP?: PROCEDURE FOR CREATING A PARTNERSHIP

1º) Go to before a NOTARY (In case you want to contribute with real estate assets)

In this case, we also will have to pay the Tax for Property Transfer and Documented Legal Acts.

Otherwise, we simply need a private contract of agreement specifying the terms of your relationship, and we don't need to pay that Tax.

This contract must refer to:

- The partners' rights and duties.
- The nature of contributions and percentage in partnership losses and profits to be shared by each partner.
- The provision of a name for the partnership.



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- The establishment of the partnership activity (corporate objective).
- The establishment of the partnership corporate address.
- It will indicate the people that will manage the partnership.

2º) Go to HACIENDA (Tax Office)

Fill **FORM 037** to inform that we are going to star up a business as Partnership.

We have a term of 30 days before the beginning of the activity.

Remember to bring the contract, your passports, your NIEs and photocopies of all.

REMEMBER that in case you needed to be “Autónomo” you have to follow the procedure for “Autónomo” as well.

## 10. HOW DO I INCORPORATE A COMPANY (SL)? PROCEDURE FOR COMPANY INCORPORATION. PROCEDURE FOR “SOCIEDAD LIMITADA” INCORPORATION

1º) Certificate indicating that the company name is unique.

2º) Open a Bank account under the name of the Company and deposit 3.000€ as SOCIAL CAPITAL.

3º) Go before the Notary (PAE\*) or online though CIRCE\*

- Sign the Articles of Association \*
- Get the Provisional NIF
- Register the Company

4º) Go to HACIENDA to ask for the Definitive NIF

5º) Go to the Spanish Agency for data protection to register your data bases

**IN BARCELONACTIVA YOU CAN FIND ASSISTANCE TO START UP YOR COMPANY  
GO TO THE OFICINA D'ATENCIÓ A LES EMPRESAS (OAE)**



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