
Tax measures in the draft General State Budget Act for 2022

Legal flash | Tax
October 2021



-
- > The bill of the General State Budget Act for 2022 introduces significant tax measures affecting corporate income tax and personal income tax in Spain.
 - > Specifically, the bill establishes a minimum tax liability net of all credits and allowances applicable to some taxpayers.
 - > As for personal income tax, new amendments will be made to the tax and financial system governing individual and company contributions to social welfare systems.



As the bill of the General State Budget Act for 2022 (“**GSBA 2022**”) has been submitted for parliamentary processing, the tax measures set out in it may change.

Corporate income tax

1. Minimum taxation

The bill of the GSBA 2022 establishes a minimum taxation on corporate income tax (“**CIT**”) for tax periods beginning on or after January 1, 2022, which will affect taxpayers with a net turnover of at least €20 million in the previous year and those subject to the consolidated tax system (regardless of their net turnover).

The text of the bill excludes some companies from the scope of this measure, namely those with a reduced or a zero rate, such as investment companies with variable capital, financial investment funds, real estate investment funds and companies, and REIT regulated under Act 11/2009, among others.

Specifically, the bill states that the minimum tax liability net of all credits and allowances cannot be lower than the result of applying 15% to the taxable base. This 15% rate increases to 18% in the case of credit institutions and companies dedicated to the exploration, research and exploitation of hydrocarbons (which apply a 30% tax rate instead of 25%).

The key concepts to bear in mind are the taxable base, the tax liability net of all credits and allowances (*cuota líquida*), and the minimum tax liability (*cuota líquida mínima*). The bill of the GSBA 2022 introduces into CIT regulations the new concept of “tax liability net of all credits and allowances” (as the figure resulting from the total tax liability reduced by any applicable deductions and credits). It can never be negative.

The basis for calculating the “minimum tax liability” is the taxable base resulting from applying all adjustments to the accounting profit, including the adjustments to avoid double taxation (e.g., article 21 of the CIT Act), the capitalization reserve, and also offsetting negative tax bases. The 15% (or, if applicable, 18%) rate will be applied to this base to ascertain the minimum tax liability.

The text of the bill makes an exception on imposing this rule on companies that apply any of the following: (i) some type of allowances provided in the CIT Act, (ii) deductions for investments carried out by port operators, and (iii) deductions to avoid double taxation. These types of allowances and deductions are not affected by the minimum tax liability.



The minimum tax liability will affect taxpayers that wish to apply deductions for investments or for carrying out certain activities (e.g., deductions for research, development and technological innovation) other than those mentioned above.

2. Reduction in the rebate applicable to housing rental companies

The bill of the GSBA 2022 envisages an amendment to article 49 of the CIT Act to reduce the credit amount provided in the special regime for housing rental companies (“**REAV**”) in the CIT regulations for income from housing rentals.

Companies applying the REAV benefit from an 85% allowance on the tax rate corresponding to income from housing rentals that meet certain requirements (this being the only tax benefit they can apply with regard to direct taxation). The bill of the GSBA 2022, effective for tax periods beginning on or after January 1, 2022, reduces the allowance from 85% to 40%. Thus, the rate for these entities will be 15% for income that can benefit from the allowance. Note that this amendment affects all companies subject to the regime, regardless of their net amount of turnover or whether they belong to a consolidated tax group.

Personal income tax

Reductions in the taxable base for provisions and contributions to social welfare systems

The bill of the GSBA 2022 envisages new amendments, complementing those approved in the General State Budget Act for 2021, that affect the tax and financial system governing individual and company contributions to social welfare systems and will enter into force on January 1, 2022. These are:

- The quantitative limit of tax reduction is reduced from €2,000 to €1,500 a year on the personal income tax base for joint contributions to the different social welfare systems. This amendment also affects the set of reductions applied by anyone paying premiums to dependency insurance policies in favor of a single taxpayer, including those of the taxpayers themselves.
- The tax deduction has risen from €8,000 to €8,500 as regards the previous limit when that increase derives from company contributions to social welfare systems. Another new development is that contributions workers make to the social welfare scheme for an amount equal to or lower than the contributions made by the company to the same social welfare scheme may be taken into account within the above limit increase.



- Finally, the bill establishes that contributions made to the social welfare system will qualify as “workers’ contributions” if they result from the decision of the employee.
- Along the same lines as the amendments to the quantitative limit of tax reduction on the personal income tax base, the financial limit of the maximum annual contributions to social welfare schemes has also decreased.

For additional information, please contact Cuatrecasas.

©2021 CUATRECASAS

All rights reserved.

This document is a compilation of legal information prepared by Cuatrecasas. The information and comments in it do not constitute legal advice.

Cuatrecasas owns the intellectual property rights over this document. Any reproduction, distribution, assignment, or any other full or partial use of this document is prohibited, unless with the consent of Cuatrecasas.