



How to set up your business in Spain

2023





About this guide

March 2023

This guide provides an overview of some key legal aspects for foreign investors interested in investing in Spain. It is not intended to be comprehensive, but to address practical issues that will help investors considering an investment project in Spain.

For additional information, please refer to our “Doing Business in Spain” guide, available at [this link](#).

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1. SPAIN: AN OPEN AND COMPETITIVE ECONOMY





Spain is attractive for foreign investment, not only because of its domestic market but also because of its privileged geo-strategic position. It is the perfect bridge between Latin America, Europe and Africa. Its location provides an ideal gateway to Northern Africa and it is also a unique platform to channel investments to Latin America.

Spain is the 4th economy of the European Union (“EU”) and the 14th in the world. It is the 13th recipient of foreign investments in the world¹. Its GDP was €1,327,108 million in 2022.

Spain has been a member of the EU since 1986.

In 2022, Spain had around 47.6 million inhabitants and it received approximately 71.6 million tourists. Spanish is a global language with over 600 million speakers.

Barcelona and Madrid have been ranked as the top 20 world’s most livable cities in the world².

1 Source. Icx. Invest in Spain.

2 Source. Monocle’s Quality of Life Survey



2. WAYS OF INVESTING IN SPAIN



Options to set up a business

The most common ways to invest in Spain are incorporating a new company, establishing a branch or opening a representative office. Instead of incorporating a company, investors can buy a “shelf company.”

Most common types of Spanish companies

Spanish law provides for a variety of corporate vehicles. The most common are private limited companies (*sociedades limitadas*, or “SLs”) and public limited companies (*sociedades anónimas*, or “SAs”). Both have a legal personality, separate and distinct from that of their shareholders/partners, who are not personally liable for the company’s debts.

Branches and representative offices

A branch is a secondary establishment operating permanently as a representative of its parent company. Although it has a degree of independence from its parent company and carries out all or part of that company’s business activities, it does not have a separate legal personality.

Representative offices mostly carry out ancillary, accessory and instrumental activities. Like branches, they do not have a separate legal personality.

The parent company of a branch or a representative office will be liable for their obligations and debts.



Overview of limited companies

As already indicated, the most common types of companies are SAs and SLs. Investors usually choose a private limited company (*sociedad limitada*) when they set up a new company in Spain.

Key features of Spanish limited liability companies (applicable to both SLs and SAs) are the following:

- Directors and shareholders do not need to be Spanish residents.
- They can be sole shareholder companies.
- Only one director is required.
- Management and ownership can be separate.
- Directors have a diligence and loyalty duty.
- Shareholders/partners are not personally liable for the company's debts.
- Relevant corporate data and resolutions (about the company, its directors and its annual accounts) must be filed with the relevant commercial registry and are open to public inspection.
- An audit may be required based on the size of the company.

Differences between SLs and SAs

The main differences between SLs and SAs are as follows:

	SL	SA
MINIMUM SHARE CAPITAL	€1 However, until the company's share capital reaches €3,000, some specific rules apply regarding the allocation of the statutory reserve and partners' liability.	€60,000
DISBURSEMENT	Fully paid-up on incorporation.	Initial outlay of at least 25% of the nominal value of each share. The outstanding amount must be paid according to the agreed terms. In case of non-capital contributions, within five years.
CONTRIBUTIONS IN KIND	No expert report assessing the value of investments in kind is required. Partners (and directors in the case of a capital increase) are joint and severally liable for the existence and the value of the investment in kind against third parties and the company.	The value of the shareholders' investments in kind must be assessed by an expert. Although this expert report provides greater certainty and protects the interests of third parties, cost and time requirements are more cumbersome than for SLs.
LISTING AND ISSUING BONDS OR OTHER NEGOTIABLE INSTRUMENTS	SLs cannot be quoted. With some restrictions, SLs can issue or guarantee bonds and other securities that acknowledge or create a debt, but SLs are banned from issuing/guaranteeing bonds convertible into units.	SAs can raise funds through capital markets by issuing/selling shares or issuing bonds and other securities that acknowledge or create a debt, including bonds convertible into shares.
RESTRICTIONS ON TRANSFERS	Unless otherwise provided in the bylaws, quotas can be freely transacted between partners or with partners' spouses, ascendants, descendants and group companies. In all other cases, transfers are subject to the restrictions provided in the bylaws or, failing that, in the Spanish Companies Act. A lock-up is allowed for five years following incorporation or a capital increase.	Restrictions on transferability can only be applied to registered shares, should be explicitly stipulated in the bylaws, and may not completely limit their transfer. Exceptionally, a lock-up is allowed for two years following incorporation.

Differences between SLs and SAs

	SL	SA
PARTNERS OR SHAREHOLDERS MEETING	<p>As a rule, partners meetings must be convened at least 15 days before they are scheduled to be held. However, “universal” partners meetings (in which all partners present or represented agree to hold the meeting) can be held without being convened. The bylaws can provide for hybrid or virtual meetings.</p> <p>There is no attendance quorum. Resolutions are passed by simple majority of valid votes provided they represent at least one-third of the voting rights.</p> <p>Some resolutions require a reinforced majority (more than one-half of the voting rights for capital increase or decrease and bylaw amendments, and at least two-thirds of the voting rights in the case of, inter alia, merger or spin-off).</p> <p>The bylaws can increase the voting majorities.</p>	<p>Shareholders meetings must be convened at least one month before they are scheduled to be held. However, “universal” shareholders meetings (in which all shareholders present or represented agree to hold the meeting) can be held without being convened. The bylaws can provide for hybrid or virtual meetings.</p> <p>At first call, there is a minimum attendance quorum: 25% of the issued share capital with voting rights. Resolutions are passed when approved by a simple majority of the votes at the meeting.</p> <p>Some resolutions require a reinforced quorum and voting majorities (e.g., increase and decrease of share capital; bylaw amendments; and transformation, merger and spin-off).</p> <p>The bylaws can increase the attendance quorum and voting majorities.</p>
ADMINISTRATIVE BODY	<p>There are four alternatives to organize the management body: (i) a sole director; (ii) a number of joint and several directors that act independently, each binding the company separately; (iii) a number of joint directors that act jointly or unanimously; or (iv) a board of directors.</p> <p>Unless provided in the company’s bylaws, minority partners are not entitled to be represented in the board in proportion to their stake in the company.</p>	<p>There are four alternatives to organize the management body: (i) a sole director; (ii) a number of joint and several directors that act independently, each binding the company separately; (iii) a number of joint directors, not exceeding two that act jointly or unanimously; or (iv) a board of directors.</p> <p>Minority shareholders are entitled to be represented in the board of directors in proportion to their stake in the company.</p>

Requirements for incorporating a limited company

This section describes the main steps required to incorporate a Spanish limited company (“NewCo”—whether an SA or an SL).

Powers of attorney. To be represented at the act of incorporation, it is necessary to grant powers of attorney, legalized by (i) a notary public and duly apostilled in accordance with the Hague Convention, or (ii) a Spanish consul. If the powers of attorney are not drafted in Spanish, a translation into Spanish is required.

Company name. A certificate of clearance must be obtained from the Central Commercial Registry (*Registro Mercantil Central*) to use the NewCo’s proposed name. The certificate states that the chosen name is available and can be used by NewCo.

Tax identification numbers. All foreign shareholders and future non-resident directors of the NewCo need to obtain a tax identification number (“NIF”), in the case of companies, or a foreigner identification number (“NIE”), in the case of individuals.

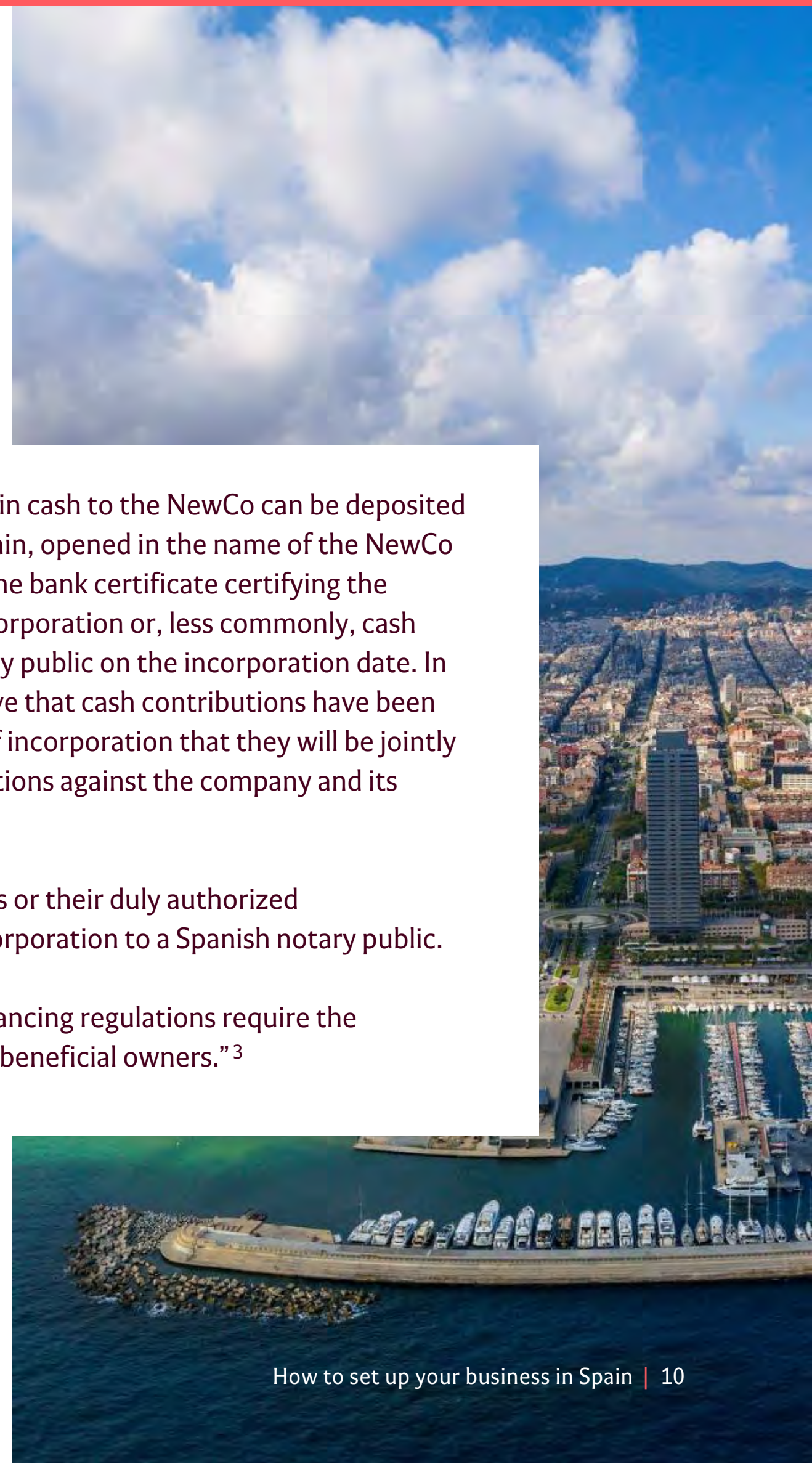
The Startup Act facilitates the entry and residence of international remote workers, foreign investors and entrepreneurs. In these cases the passport will be considered sufficient identification to register with the Social Security for the first six months of the residence or stay, when the individual does not have a foreigner identification number or NIE, although it may be requested later.

Cash contributions. Contributions made in cash to the NewCo can be deposited into or transferred to a bank account in Spain, opened in the name of the NewCo “under incorporation.” In the case of SAs, the bank certificate certifying the monetary deposit must be provided on incorporation or, less commonly, cash contributions can be delivered to the notary public on the incorporation date. In the case of SLs, it is not compulsory to prove that cash contributions have been made if shareholders declare in the deed of incorporation that they will be jointly and severally liable for these cash contributions against the company and its creditors.

Public deed of incorporation. Individuals or their duly authorized representatives must submit a deed of incorporation to a Spanish notary public.

EU anti-money laundering and terrorist financing regulations require the founder(s) to provide the identity of their “beneficial owners.”³

³ Basically, “beneficial owners” are the individuals on whose behalf founders intend to incorporate the NewCo and/or who (i) own or control, directly or indirectly, more than 25% of the NewCo’s share capital or voting rights; or (ii) exercise direct or indirect control of the NewCo. If nobody holds such a direct or indirect stake or control, it is considered that the company directors exercise control.



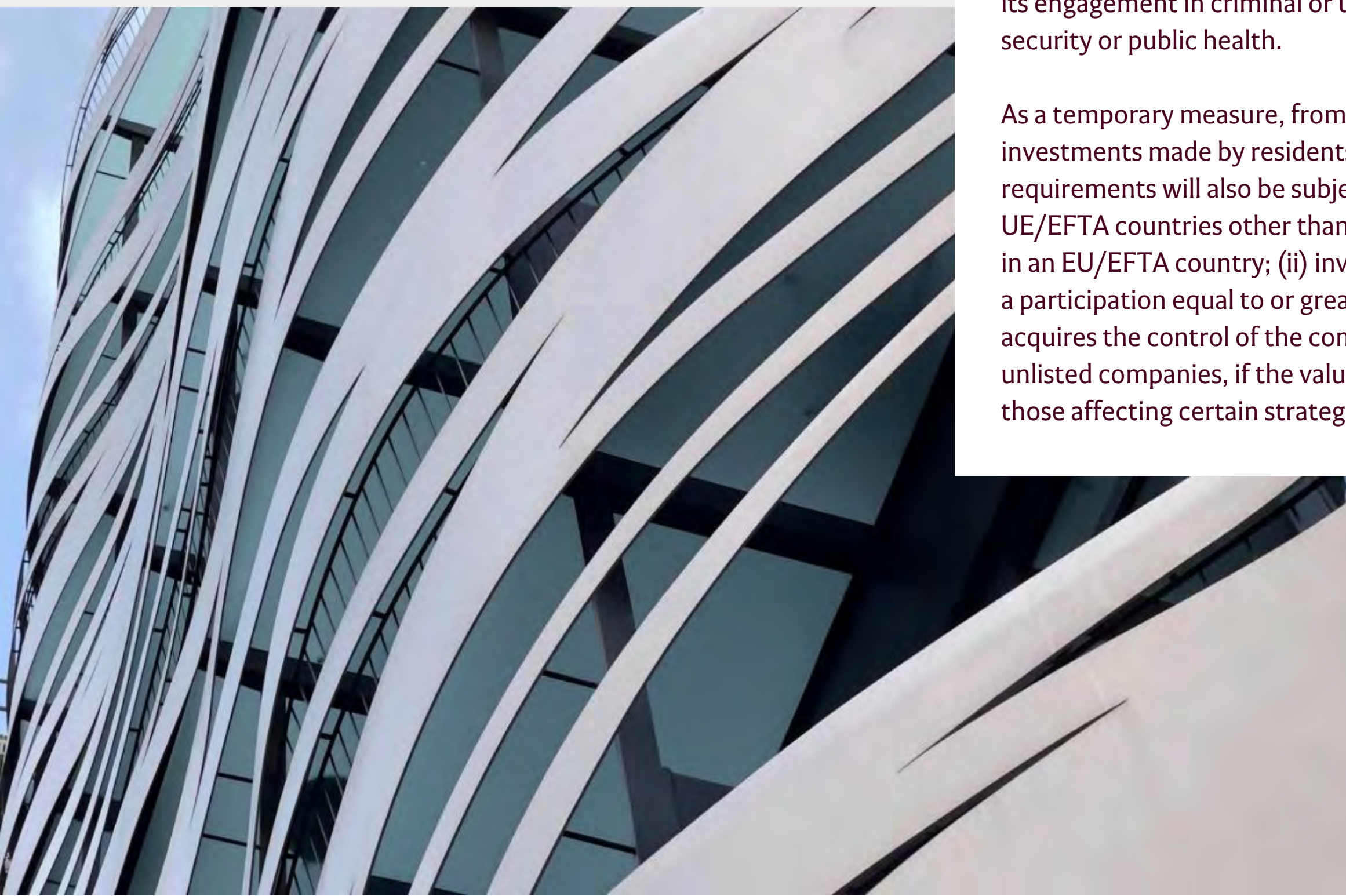
Requirements for incorporating a limited company

Tax filings. It is necessary to file certain forms to register with the tax census and obtain the company's provisional NIF with the tax authorities. Once the NewCo has been registered with the Commercial Registry, it will be assigned a definitive NIF.

Filing with the Commercial Registry. The public deed of incorporation must be submitted to the Commercial Registry for registration. NewCo can operate from the date the deed of incorporation is granted, although it will only have full legal personality upon registration.

In recent years, legal reforms have aimed to simplify the procedure to set up companies in Spain. Currently, there are simplified electronic procedures to set up SLs. In brief, all the steps to incorporate an SL can be completed through a single office or "help desk for entrepreneurs," which performs the necessary procedures through an online service using the so-called "single electronic document."

Foreign investment filings



In line with Regulation (EU) 2019/452, certain “foreign direct investments” will require authorization in cases where they affect any of Spain’s main strategic sectors; or where the investor (i) is controlled, directly or indirectly, by a third-country government; (ii) participates in sectors affecting public order, public security and public health of another EU Member State; or (iii) represents a serious risk owing to its engagement in criminal or unlawful activities that may affect public order, public security or public health.

As a temporary measure, from November 19, 2020, to December 31, 2024, investments made by residents of countries that cumulatively meet the following requirements will also be subject to authorization: (i) those made by residents of UE/EFTA countries other than Spain, or by residents in Spain with a beneficial owner in an EU/EFTA country; (ii) investments whereby the investor becomes the holder of a participation equal to or greater than 10% of the capital of a Spanish company or acquires the control of the company; (iii) those made in companies listed in Spain or unlisted companies, if the value of the investment exceeds €500 million; and (iv) those affecting certain strategic sectors.

3 MAIN TAX ISSUES



General overview of the Spanish tax system

Direct taxes on income are levied at state level for companies (corporate income tax) and individuals (personal income tax). Spanish-source income obtained by non-residents, whether individuals or corporations, is taxed through non-resident income tax.

Resident and non-resident individuals are taxed on their net wealth through wealth tax and, temporarily for 2022 and 2023, through the solidarity tax on large fortunes valued over €3 million. Individuals must pay inheritance and gift tax on the free acquisition of assets and rights by way of *inter vivos* or *mortis causa* transfers.

Indirect taxes at state level include value added tax and transfer tax. The former is applied to the consumption of goods and services; the latter is levied on specific property transfers, corporate events and legal documented acts (stamp duty). Specific activities are subject to digital services tax and financial transactions tax.

Green taxes are levied at state level on non-reusable plastic packaging and landfill, incineration and co-incineration of waste. Temporary levies are charged in 2023 and 2024 to (i) certain electricity, natural gas and liquefied petroleum gas operators; and (ii) certain credit institutions and financial credit establishments.

Excise duties are also levied on the production or importation of specific goods, such as hydrocarbons, gas, alcohol and alcoholic beverages, tobacco, carbon and some oil products, and on the registration of some motor vehicles.

The autonomous regions and municipalities also impose additional taxes. Two autonomous regions, the Basque Country and Navarre, have their own tax regulations.

Social security contributions must be paid by employees, companies and individual entrepreneurs to finance social and welfare payments, such as unemployment benefits, work accident compensation, pensions, medical care and additional work-related benefits.

Taxes imposed when setting up a business

As explained above, among other procedures, companies or individuals wishing to start a business in Spain must register with the business census before the tax authorities and obtain a NIF.

The tax costs incurred when starting up a business in Spain vary depending on how the business is carried out:

- The incorporation of a new company or the capital increase of a pre-existing company are tax-exempt under transfer tax provisions.
- The incorporation of a branch by a non-resident company resident in an EU country is also tax-exempt. Non-resident companies with a registered office and actual headquarters in a non-EU country are subject to a 1% capital tax on the funds allocated to the Spanish branch.
- Share acquisition transactions are, in general, not subject to indirect taxation, whether value added tax or transfer tax. Anti-abuse rules may apply to transactions of non-quoted shares in the second market that lead to the acquisition of or an increase in control over certain companies owning real property located in Spain.
- Ongoing business acquisitions (transfers of assets and liabilities) may be taxed under VAT or under transfer tax, where applicable. However, a tax exemption is granted under VAT provisions to the transfer of a group of tangible and intangible assets and liabilities that form part of an ongoing business.
- Corporate reorganizations that prove to be valid for economic reasons may benefit from the special corporate income tax regime for mergers, spin-offs, the contribution of assets, exchanges of securities and the change of address of a European Company (Sociedad Europea) or European Cooperative Company (Sociedad Cooperativa Europea) from one EU Member State to another EU Member State. This special tax regime is based on the tax deferral of the income obtained by all persons or entities intervening in the corporate restructuring.

Main taxes that affect the development of economic activity

Corporate income tax (“CIT”)

CIT is levied on the worldwide profits obtained by companies that are tax resident in Spain.

The CIT taxable base is calculated from the adjusted declared accounting results (profit and loss account).

- Amortization and depreciation of assets and rights, bad debts and financial leasing agreements are subject to specific tax deduction rules. Net financial expenses are tax deductible up to €1 million per year.
- Net financial expenses exceeding this amount are tax deductible provided they do not exceed 30% of annual EBITDA. Tax deduction of impairment losses of the value of fixed tangible and intangible assets and participations in quoted and non-quoted entities is deferred to the tax year in which the asset or participation is transferred to third parties or due to the winding up of the company.
- A 95% exemption is granted for dividends, profit distributions and capital gains deriving from the transfer of shares in other companies, whether resident or non-resident. Tax exemption is granted if the taxpayer (i) holds a stake of at least 5% in the company; (ii) participates for at least one year before the date on which they are payable; and, (iii) in the case of foreign entities, the profit distribution or the capital gain deriving from the transfer corresponds to a foreign entity subject to an income tax that is identical or analogous to the Spanish CIT, and where the tax rate is at least 10%.
- Tax losses may be carried forward and offset against positive tax bases calculated in the following tax years without any temporary limitation. Offsetting is limited to 70% of the positive taxable base of a given year (50% or 25% in the case of taxpayers whose turnover in the previous tax year exceeds €20 million).⁴

⁴ Special limits apply in the 2023 tax period for offsetting the negative tax base of taxpayers subject to the tax consolidation regime.

Main taxes that affect the development of economic activity

Corporate income tax (“CIT”)

The tax base can be reduced through specific tax incentives:

- Patent box. A reduction equal to 60% of the net income derived from the assignment of the right to use or exploit intellectual property, including patents, advanced copyrighted software, utility models, complementary certificates for the protection of medicines and phytosanitary products, and legally protected drawings and models resulting from research and development activities and technological innovation.
- Capitalization reserve. Companies subject to the general tax rate are allowed to reduce their taxable base by 10% of the increase in their equity, provided that this increase is maintained over a five-year period, and a separate reserve is recorded in an amount equal to the tax reduction, which must not be released over these five years.

The current CIT general tax rate is fixed at 25%. A 15% minimum taxation affects taxpayers with a net turnover of at least €20 million in the previous year and those subject to the tax consolidation regime (regardless of their net turnover).

A 23% tax rate is granted to corporations with a net turnover lower than €1 million in the previous year.

A 15% reduced tax rate applies to the following companies: (i) newly created companies for the first tax period they have a positive taxable base and for the following period; and (ii) companies qualifying as startups for the first tax period in which the tax base is positive and the following three years, as long as the company still qualifies as a startup.

Some corporate investments may benefit from specific tax credits:

- R&D and technological innovation investments. CIT taxpayers may benefit from the following tax deductions on the CIT gross tax due: (i) 25% of expenses in R&D activities, plus an additional 17% of the payroll expenses of qualified researchers assigned exclusively to R&D activities; (ii) 8% of investments in tangible and intangible fixed assets (excluding buildings and land) for R&D activities; and (iii) 12% of expenses in technological innovation activities.
- Investments in film productions, audiovisual series and live performances of scenic arts and music.
- Employment creation.
- Employment creation for disabled people.

Main taxes that affect the development of economic activity

Corporate income tax (“CIT”)

Foreign tax credit may be claimed for any foreign tax paid on foreign-source income up to the amount of the tax payable in Spain on that income.

CIT accrues on the last day of the tax period. Taxpayers must file a tax return and pay any CIT due within 25 calendar days following the sixth month after the tax accrual date.

Aimed at promoting certain activities or corporations, CIT regulations include the following special taxation regimes:

- Tax deferral regime for income generated in corporate restructuring operations, such as mergers, spin-offs, non-monetary contributions of branches of activity or exchanges of securities
- Tax consolidation regime for groups of companies
- Special regime for companies intended mainly to provide rental housing
- Real Estate Investment Trusts
- Economic Interest Groupings
- Collective Investment Undertakings
- Venture Capital Entities
- Foreign-securities holding regime

Main taxes that affect the development of economic activity

Personal income tax (“PIT”)

PIT is levied on the worldwide income obtained by individuals that are tax resident in Spain.

The tax base is divided in two categories, the general tax base and the savings tax base. All income categories must be allocated to the general or the savings taxable base, as shown below.

General tax base	Savings tax base
Employment income	Income from movable capital: dividends and profit distributions, interest and income from life/disability insurance policies, capitalization instruments and life/temporary annuities
Income from economic activities	
Real property income	
Attributions/imputations of income established in PIT law	
Capital gains and losses not deriving from transfers of assets or rights	Capital gains and losses deriving from transfers of assets or rights

Positive and negative net income respectively allocated in each part of the tax base can be offset according to specific rules.

Negative aggregate income not offset in the tax year can be carried forward to the four subsequent years.

Income allocated in the general tax base is subject to taxation at progressive tax rates ranging between 19% and 47%, on an aggregate basis (state and autonomous regions level). In some autonomous regions, higher or lower margin tax rates may apply (increasing tax rates up to 50%). Income allocated to the savings tax base is subject to progressive tax rates, ranging between 19% and 28%.

To reduce gross tax payable, specific tax credits are granted to, among others, (i) investments in new companies or in recently incorporated companies (business angels); and (ii) donations to non-profit companies and charitable institutions.

The tax period is the calendar year and tax accrues on December 31 each year. The taxpayer must self-assess and pay tax due by filing a tax return. In addition, the taxpayer may be refunded for PIT due.

Main taxes that affect the development of economic activity

Non-resident income tax (“NRIT”)

NRIT is levied on Spanish-source income obtained by non-residents, whether individuals or companies.

Resident companies under CIT and non-residents permanently established in Spain (branches and other permanent establishments) are subject to NRIT on their worldwide income. Calculation of tax due follows the CIT rules. Non-residents must appoint a tax representative residing in Spain to deal with the tax authorities for all issues concerning NRIT. Having a tax representative is also mandatory in some cases for non-residents that do not operate in Spain through a permanent establishment.

Non-residents that are not permanently established are subject to NRIT only on their Spanish-source income and capital gains. The general tax rate is 24%. Dividends, interest, and capital gains from the transfer of assets or rights are subject to a 19% tax rate.

Royalties paid to an associate company resident in an EU Member State or to a permanent establishment of the company in another EU Member State are tax-exempt.



Main taxes that affect the development of economic activity

Tax incentives for expats: Special tax regime for impatriates

In order to make moving to Spain an attractive option for employees, professionals, entrepreneurs and investors residing abroad, individuals who become tax residents in Spain may opt for PIT liability for 6 years under the rules of NRIT with certain specialties. This means, among others, that foreign-source income is not subject to taxation, while Spanish-source income and worldwide employment income is subject to Spanish PIT.

The following tax rates apply to impatriates' employment income:

Taxable amount	Tax rate
Up to €600,000	24%
€600,001 and above	47%

To benefit from this special regime the following requisites must be met:

- (i) workers cannot have lived in Spain during the five tax periods before moving to Spain.
- (ii) the move must result from any of the following circumstances:
 - An employment agreement (except for professional sportsmen and sportswomen).
 - The acquisition of the status of administrator of a company.
 - Digital nomads (employees that work for a foreign company, providing their services remotely through the exclusive use of computer and telecommunications systems and resources).
 - Carrying out entrepreneurial activities (startup entrepreneurs).
 - Highly qualified professionals moving to Spain to carry out an economic activity that involves providing services to startups or carrying out training, research, development and innovation activities for which they receive remuneration that makes up over 40% of their income from work and economic activity.
- (iii) Taxpayers must not obtain income that would qualify as obtained through a permanent establishment in Spain (in general, services income).

This special tax regime is also available for the impatriates' spouses and children up to the age of 25 years, or disabled children of any age. The regulations impose specific requirements for these individuals to benefit from this regime.

To apply for this optional regime, taxpayers must notify the Spanish tax authorities.

Main taxes that affect the development of economic activity

Value added tax (“VAT”)

VAT is an indirect tax on the consumption of goods and services.

Entrepreneurs, professionals and companies must levy this tax at every stage of the production or distribution process of goods and services. The final tax burden is borne by consumers.

Entrepreneurs and professionals charge VAT on supplies of goods and services provided to consumers and must pay this tax to the tax authorities (output tax). The VAT they are charged by suppliers for goods and services (input tax) may be offset against output VAT. Therefore, VAT is neutral for entrepreneurs and professionals operating within the production and distribution chain.

Although the rates vary, VAT is a harmonized tax within the EU. VAT is applicable within the Spanish territory, except the Canary Islands, Ceuta and Melilla.

VAT applies to the following transactions carried out in Spain:

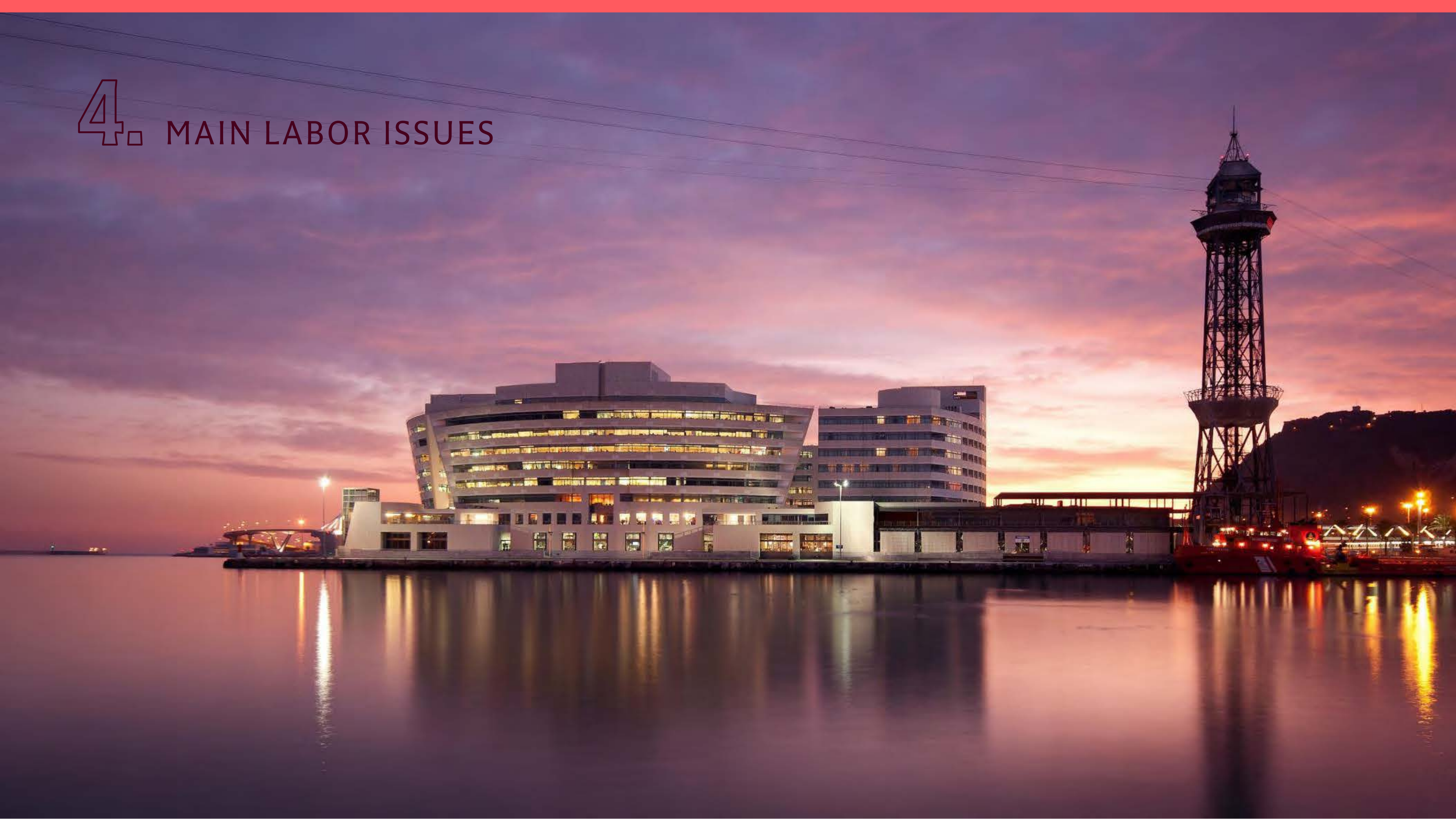
- Supplies of goods and services made by entrepreneurs or professionals in the course of their business or professional activity
- Intra-EU acquisitions of goods made by entrepreneurs or professionals. In some cases, they are also taxed when made by individuals
- Imports of goods made by entrepreneurs or professionals

The general tax rate is 21%, but there are some reduced rates. A reduced rate of 10% is provided for a number of protected transactions, and an ultra-low rate of 4% is applied to a number of goods and services of public interest.

Transfer tax

Transfer tax includes three different taxes: (i) property transfer tax, levied on the non-business onerous transfer of property; (ii) tax on corporate events, levied on transactions related to companies' equity; and (iii) stamp duty, levied on the issuance of specific notary, commercial and administrative documents.

4. MAIN LABOR ISSUES



Setting up as an employer

Foreign companies may hire employees directly, but need to register as employers with the Spanish tax and social security authorities, and must file several documents, some of which need to be legalized and translated.

Alternatively, foreign companies may hire employees through a local legal entity that will be registered as a local employer.

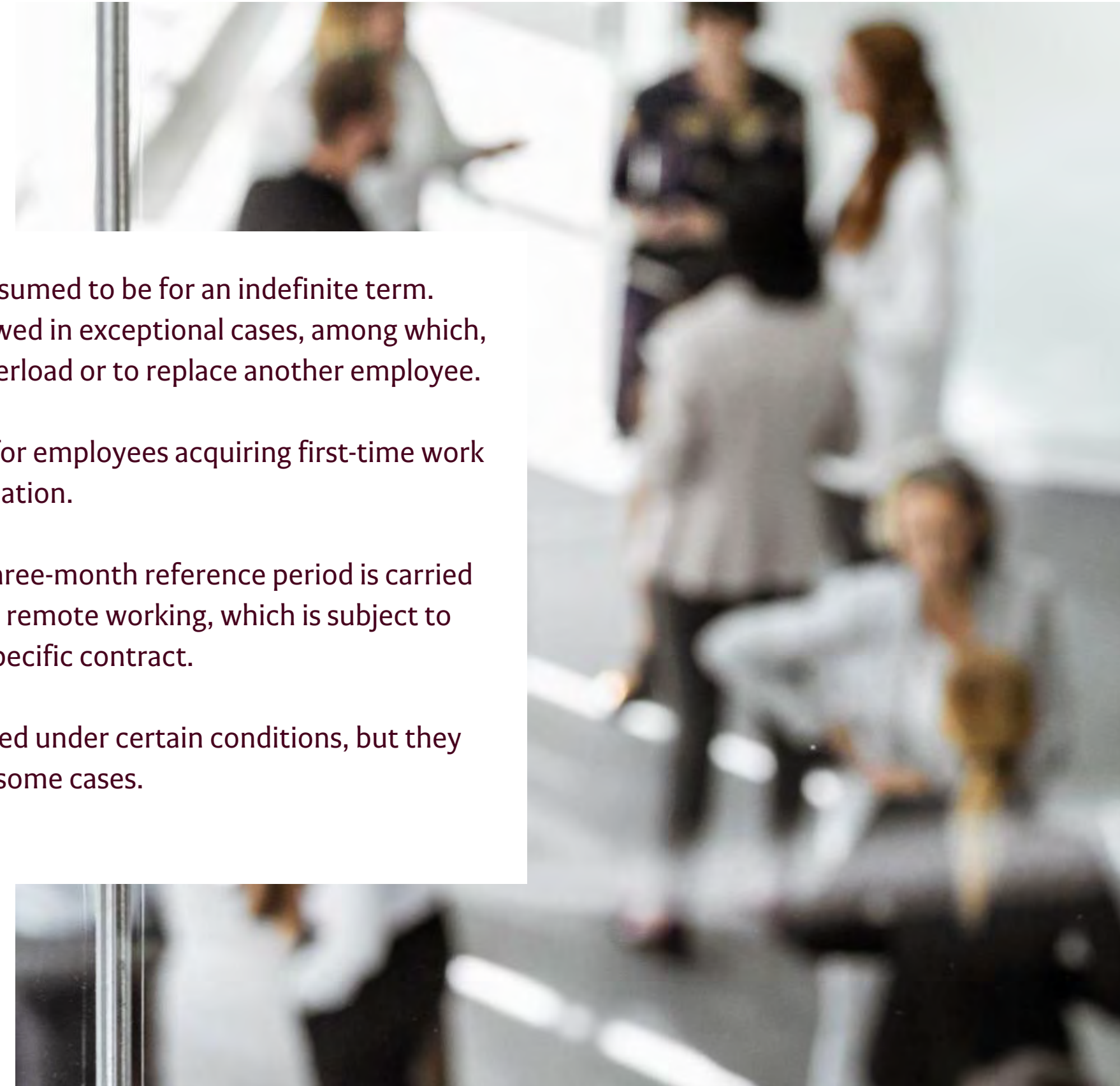
Entering into employment agreements

All employment agreements are presumed to be for an indefinite term. Temporary employment is only allowed in exceptional cases, among which, to cover situations of production overload or to replace another employee.

There are also training agreements for employees acquiring first-time work experience or completing their education.

When 30% of the working day in a three-month reference period is carried out from home, it will be considered remote working, which is subject to specific regulations and requires a specific contract.

Independent contractors are accepted under certain conditions, but they may be reclassified as employees in some cases.



Hiring employees that are non-residents of the EU

As a rule, employees who are not from the European Economic Area need an initial work authorization to work in Spain, irrespective of the type and duration of the services provided.

There are some exceptions for work permits required for specific groups of employees, mainly those involved in foreign affairs and scientific issues. Even so, these employees require a visa to enter Spain.

Employers wishing to hire non-resident employees must file a petition with the government authorities for an initial temporary work and residence authorization for those employees.

Once the initial residence and work authorization has been granted, non-resident employees must apply for a visa at the Spanish diplomatic delegation or consular office in their home country.

To attract investment (capital) and talent (qualified professionals) administrative bureaucracy is reduced for the entry and stay in Spain of the following foreigners:

- Investors
- Entrepreneurs
- Highly qualified professionals
- Employees subject to intra-corporate transfers within the same undertaking or group of undertakings
- Researchers and students

Hiring employees that are non-residents of the EU

Investors

The visitors' visa for investors is granted for one year and is sufficient authorization to reside in Spain. The initial residence permit for investors is granted for three years.

To obtain the visa, one of the following types of investment in Spain must be proved:

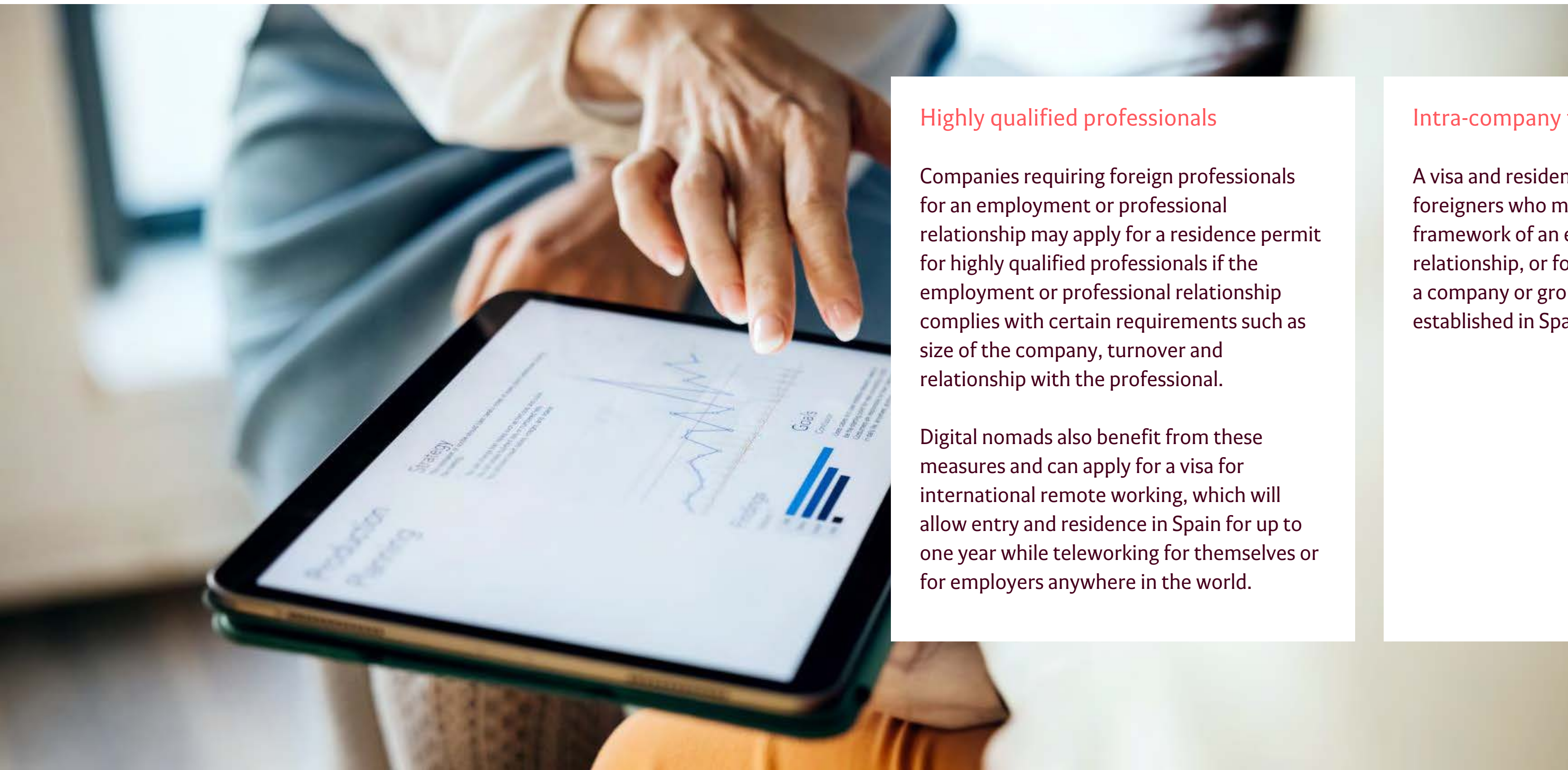
- €2 million in Spanish public debt, or €1 million in shares or equity interests in Spanish companies, or in bank deposits in Spanish financial institutions.
- Acquisition of one or more properties with a joint value of at least €500,000 per applicant.
- Investment in a general-interest business project, provided it helps create jobs, has a socio-economic impact on its geographic sphere of influence or makes a significant contribution to scientific or technological innovation (upheld with a report from the consulate trade office).

Entrepreneurs and business activity

For this purpose, business and entrepreneurial activities must be innovative, of economic interest to Spain, and must have been given a favorable report from the General State Administration's relevant body. The creation of jobs in Spain is particularly valued. The contracting party's professional profile will also be considered, along with the business plan, its added value for Spain's economy, innovation, and investment opportunities.

A one-year visa can be applied for to carry out the preliminary procedures for starting a business activity. When proof of the start of the business activity has been provided, applicants will qualify for a residence permit for entrepreneurs, requiring no prior minimum stay. The initial residence permit for entrepreneurs is granted for three years.

Hiring employees that are non-residents of the EU



Highly qualified professionals

Companies requiring foreign professionals for an employment or professional relationship may apply for a residence permit for highly qualified professionals if the employment or professional relationship complies with certain requirements such as size of the company, turnover and relationship with the professional.

Digital nomads also benefit from these measures and can apply for a visa for international remote working, which will allow entry and residence in Spain for up to one year while teleworking for themselves or for employers anywhere in the world.

Intra-company transfer

A visa and residence permit are granted to foreigners who move to Spain within the framework of an employment or professional relationship, or for professional training with a company or group of companies established in Spain or elsewhere.

Key employment conditions

Salaries

Salaries are defined either in the applicable collective agreement (mandatory for companies and employees) or in the employee's individual employment agreement, which must meet the minimum amount set forth in the collective agreement.

The official minimum wage under Spanish law for 2023 is gross €1,080 per month. However, the minimum wage for each professional group is usually set out in collective agreements.

Working time

The maximum number of working hours per week is 40 on annual average, typically with a maximum of nine hours per day. Each hour worked over this limit is overtime. Companies must compensate overtime with resting time, or pay up to 80 hours per employee and year.

All companies must keep a daily register of each employee's standard working hours, including the start and finish time.

The ordinary minimum annual vacation period is 30 calendar days, plus 14 bank holidays per year.



Social security

Social security contributions are compulsory for employers and employees. Employers are liable for withholding their employees' contributions from their salaries. The monthly social security contribution is determined by applying a legal rate to the adjusted income (the "social security base") of the employee.

There is a minimum and maximum social security base for each professional group. The maximum monthly base for 2023 is €4,495.50, resulting in a maximum monthly social security cost of €1,450 per employee (approximately €17,500 per year and employee).

- Employers' contributions amount to approximately 32% of the monthly pay, depending on the activity carried out.
- Employees' social security contributions generally amount to 6.35% of their monthly salary.
- Contributions must be withheld from the monthly payroll and paid to the social security authorities.



Rights and obligations



Collective representation and organizational rights

Trade unions play an important role in Spain.

Employees' representatives have a significant presence in companies and must be considered and consulted about many decisions, especially in companies with more than 50 employees.

Equality in the workplace

All companies with 50 or more employees are obliged to draw up an equality plan and must also conduct an audit of women's and men's salaries.

There are obligations to avoid discrimination and protect equal treatment rights (LGTBI rights, age, gender, belief, sexual orientation, etc.).

Health and safety at work

Employers must ensure health and safety at work by (i) notifying the labor authorities that they are opening a workplace, (ii) drawing up a risk assessment and prevention plan, (iii) training employees, and (iv) monitoring employees' health.

Labor fines and penalties

There are penalties for infractions committed by employers and employees alike in the context of a wide range of labor laws, including those relating to social security obligations, health and safety, labor relations, subcontracting, and temporary employment.

Modification and termination of employment



Changes in labor conditions

Employee mobility is allowed for companies to adapt to market and economic circumstances through functional and geographical mobility and substantial modification of employment conditions.

Temporary redundancies

Employers can temporarily suspend employment agreements or reduce working time (between 10% or 70%) without having to pay compensation (unless otherwise agreed by the parties) when layoffs are due to temporary work problems.

Modification and termination of employment

Termination of employment

Termination of employment requires a cause. There are several grounds for individual termination of employment. Besides conduct-related termination (including termination for gross misconduct), employment may be terminated because of individual or collective redundancies (due to business-related reasons, such as economic difficulties or the closure of business operations).

Individual and collective redundancies

In the case of individual redundancies due to objective (economic, technical, organizational, or productive) reasons, the company must give a 15-day prior written notice and explain the grounds for the redundancy in the termination letter. Redundant employees are entitled to a statutory severance compensation equal to 20 days' salary per year of service (capped at 12 months' pay).

If a redundancy affects a significant number of employees, it may be considered a collective dismissal, which must be negotiated with employees' representatives or ad hoc designated employees' representatives.

Consequences of termination

Termination of employment by the employer may be qualified as fair, unfair, or null and void.

- **Fair:** if is cause and the procedure has been followed correctly.
- **Unfair:** if there is no cause, or it is not sufficient, or the formal requirements have not been complied with. In these cases, companies must either reinstate the employee or pay a severance compensation amounting to 33 days' salary per year of service (capped at 24 months' pay) for the length of service accrued after February 12, 2012; and 45 days' salary per year of service (capped at 42 months' pay), for the length of service accrued before February 12, 2012. The sum of both severance calculations cannot exceed the equivalent of 720 days' salary.
- **Null and void:** if based on discriminatory grounds. In this case, the employee must be reinstated and receive back payment of the salaries accrued during the judicial process, and may receive damages.

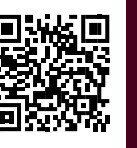
Transfer of undertakings

A company setting up in Spain may enter into employment agreements through a transfer of undertaking, which occurs in case of a transfer of an autonomous economic entity, defined as an organized grouping of resources that has the objective of pursuing an economic activity, regardless of whether that activity is central or ancillary. The object of this kind of transfer may be an entire company, a work center, or an autonomous production unit.

In this case, the new company assumes the position of employer, with the same obligations as the previous employer, becoming a party to the employment agreements. Employees are automatically transferred to the transferee, preserving all their employment rights. Likewise, the transfer does not justify changes in the employees' working conditions.

The transferor and transferee are jointly and severally liable, for a three-year period starting on the transfer date, for all employment obligations existing before the transfer and that have not yet been fulfilled. Employment obligations include social security obligations.





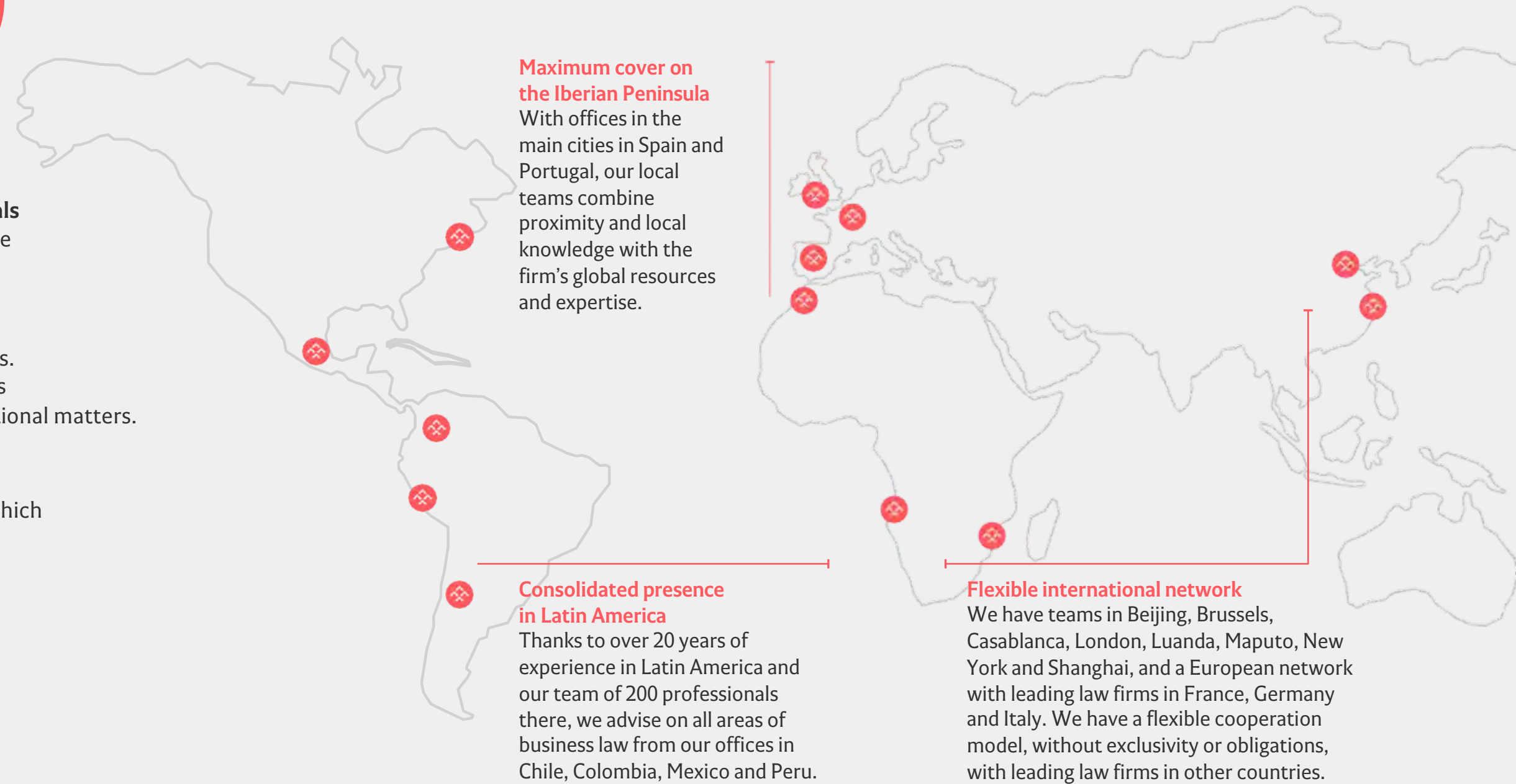
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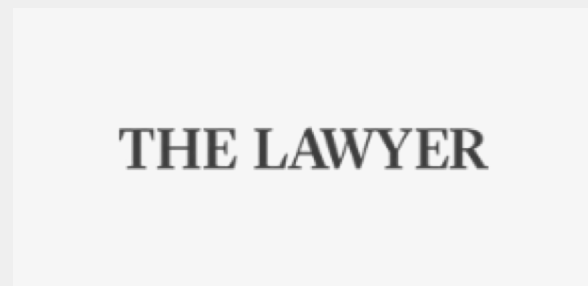


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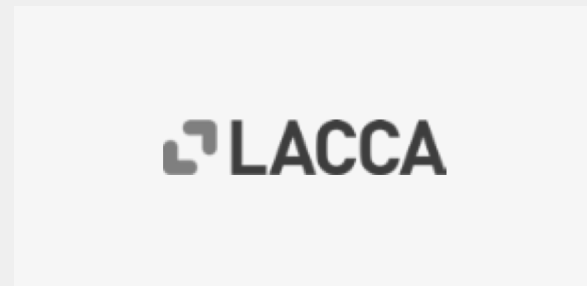
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