
New tax law in Andalusia

In order to reduce tax liability it has been approved new measures in Personal Income Tax (PIT), Inheritance and Gift Tax (IGT) and Transfer Tax and Stamp Duty. We can highlight the improvements in the requirements to apply the family business benefits in IGT.

Legal Flash

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Key aspects

- > The reduction in the regional tax scale of PIT is brought forward to 2022, being the maximum marginal tax rate 22.50%.
- > The maximum marginal tax rate for NWT in 2022 will be 2.50% to net taxable base higher than 10.7 million euros.
- > There is a reduction in the tax scale of IGT and the multiplier coefficients will not depend on the pre-existing wealth.
- > The requirements to apply the benefits of family business are improved from IGT purpose.
- > The Transfer Tax rate set out is 7% and the Stamp Duty rate is 1.20%, both for an indefinite period.



Introduction

Below there is an analysis of the most significant tax measures approved by Act 5/2021, October 20, of taxes assigned of Andalusia region published in the Official Gazette of the Government of Andalusia.

Personal Income Tax

The reduction in the regional tax scale currently planned for 2023 is brought forward to 2022. This measure implies a maximum tax rate of 22.50% to net taxable base higher than 60,000 euros. If it had not been approved, the maximum tax rate would have been 23.10%.

The aggregate tax scale rate for tax year 2022, which is calculated by adding the state tax scale and the regional tax scale, is as follows:

Net tax base Up to (euros)	Gross tax due (euros)	Remainder of the net tax base (euros)	Tax rate (%)
0.00	0.00	12,450.00	19.00%
12,450.00	2,365.50	7,750.00	24.00%
20,200.00	4,225.50	15,000.00	30.00%
35,200.00	8,725.50	24,800.00	37.00%
60,000.00	17,901.50	240,000.0	45.00%
300,000.00	125,901.50	Thereinafter	47.00%



Net Wealth Tax

For tax year 2022 there is a new tax scale with a maximum marginal tax rate reduced (this measure was approved by Act 3/2020).

This means that the maximum tax rate for net taxable bases higher than 10.7 million euros is 2.76% for tax year 2021 and 2.50% for tax year 2022.

Inheritance and Gift Tax

It is recalled that on [April 11, 2019](#), a 99% allowance in the IGT applicable to *mortis causa* acquisition, including life insurances beneficiaries, as well as *inter vivos* acquisitions, provided the acquirers and the beneficiaries are the spouse, descendants and ascendants of the deceased or donor, came into force.

Tax scale

Coming into force on January 1, 2022, there is a reduction in the tax scale of IGT, being the minimum tax rate 7% and the maximum tax rate 26% (currently these tax rates are 7.65% and 36.50%, respectively). The tax scale will be as follows:

Net tax base Up to (euros)	Gross tax due (euros)	Remainder of the net tax base (euros)	Tax rate (%)
0,00	0,00	8,000	7%
8,000	560	7,000	8%
15,000	1,120	15,000	10%
30,000	2,620	20,000	12%
50,000	5,020	20,000	14%
70,000	7,820	30,000	16%
100,000	12,620	50,000	18%



150,000	21,620	50,000	20%
200,000	31,620	200,000	22%
400,000	75,620	400,000	24%
800,000	171,620	Thereinafter	26%

Multiplier coefficients

The multiplier coefficients will continue to depend on the degree of kinship, but without discriminating on the basis of pre-existing wealth. In practice, there will not be any taxation increase for the spouse, descendants and ascendants of the deceased or donor due to their multiplier coefficient will be 1.

Below there is a chart with the multiplier coefficients applicable since January 1, 2022:

Groups I and II ¹	Group III ²	Group IV ³
1.00	1.50	1.90

Reduction for family business

For individual businesses, the remuneration requirement has been eliminated. With the new measure approved, the deceased or donor must carry out the activity habitually, personally and directly, and that the deceased or donor receives income for this activity, but this income does not need to represent more than 50% of the PIT tax base.

In addition, in cases of retirement or permanent disability of the deceased or donor, the activity should be carried out habitually, personally and directly by the spouse, descendants or ascendants.

Regarding the reduction in *mortis causa* or *inter vivos* transfers of shares in family business, the most significant measures are:

¹ The spouse, descendants and ascendants of the deceased or the donor.

² Collaterals of second and third degree, and ascendants and descendants by affinity

³ Collaterals of fourth degree, more distant degrees and strangers.



- a) The kinship group for calculating the 20% stake in the share capital of family business is extended to the 6th collateral degree (previously, to the 2nd collateral degree).
- b) The remuneration requirement is eliminated. It will be sufficient that the deceased, donor or their relatives within the kinship group receives a remuneration for the effective exercise of the management functions.
- c) The maintenance period of the family business acquired is reduced to 3 years. It is stated the maintenance is regarding the assets and rights acquired, not its value.
- d) The reduction will be applicable to cash, assets representing the stake in the equity of an entity and other financial assets whose acquisition price does not exceed the amount of undistributed profits obtained by the entity, provided that such profits arise from the performance of economic activities, up to the limit of the profits obtained both in the fiscal year itself and in the ten preceding tax years.
- e) The Explanatory Memorandum states that “*neither the acquisition nor the maintenance of the assets acquired are required to be exempt from wealth tax*”. This amendment may be relevant with respect to the application of the reduction for the gift of the family business given that the state regulation does require that the donee be entitled to exemption in the NWT during the ten years following the gift. The elimination of this requirement in the Andalusian legislation effectively makes the application of the reduction more flexible. However, it should be noted that, for the donor, it will be necessary to maintain the right to the NWT exemption in order to be able to benefit from the deferral regime of the capital gain in the PIT.

Transfer Tax and Stamp Duty

Tax rates

It has been stated a 7% tax rate for Transfer Tax and a 1.20% tax rate for Stamp Duty, both for an indefinite period. These tax rates were already in force in Andalusia on a transitory basis until December 31, 2021 and through Act 5/2021 their application has been extended indefinitely.



Other aspects of special interest

Declaration, settlement and payment deadlines

In the case of IGT, for gifts, it has been extended the period for the filing of the self-assessment. It has been established a period of two months from the date of the gift instead of the previous period of 30 days.

In the same sense, for Transfer Tax and Stamp Duty, a period of two months is established for the self-assessment of the events subject to such taxes, starting from the day following the date of the accrual.



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