

## TRANSFER TAX & STAMP DUTY (TT & SD)<sup>(11)</sup>

### Tax Rates:

- Transfer Tax (TT)
  - Real Estate Assets <sup>(12)</sup>: 7%
  - Financial and other Assets: 4%
  - Certain rights on Real Estate: 1%
- Corporate Transactions (CT): 1%
- Stamp Duty (SD) on legal documents
  - Variable:
    - Notarial Documents (ND) 1%
    - Merc. and admin. documents: Scale
    - Preventive Notes: 0.50%
  - Fixed: 0.15€ per sheet/  
0.30€ per stamp

<sup>(11)</sup> See Real Estate Transactions Section

<sup>(12)</sup> In Andalucía: 8% from 40,000€ in property & 30,000€ in garage

## REAL ESTATE TRANSACTIONS<sup>(13)</sup>

Transaction	VAT	%	TT & SD	%
<b>Buildings (Housing)</b>				
a) buildings under construction.....	Taxable	16	SD-ND	1
B) Finished Buildings - First Transfer.....	Taxable	7	SD-ND	1
Except when used for more than 2 years by...	Tax Exempt:			
1) the developer	Waived	7	SD-ND	1 <sup>(13)</sup>
2) lessee, tenant, room tenant and transfer to 3rd parties	Not Waived	-	TT	7
- Second and subsequent transfers	Tax Exempt:			
	Waived	7	SD-ND	1 <sup>(13)</sup>
	Not Waived	-	TT	7
<b>Exceptions:</b>				
1) Taking the option to buy.....	Taxable	7	SD-ND	1
2) Building renovation.....	Taxable	7	SD-ND	1
3) Building demolition.....	Taxable	16	SD-ND	1
4) After solving the first handing over.....	Taxable	7	SD-ND	1
<b>Land</b>				
a) Building land.....	Taxable	16	SD-ND	1
Exception: Compensation Board	Tax Exempt:			
	Waived	16	SD-ND	1 <sup>(13)</sup>
	Not Waived	-	TT	7
b) Green Belt.....	Tax Exempt:			
	Waived	16	SD-ND	1 <sup>(13)</sup>
	Not Waived	-	TT	7
<b>Values</b>				
General.....	Tax Exempt:	-	Tax Exempt	-

Transaction	VAT	%	TT & SD	%
<b>TRANSFERS</b>				
Exceptions:				
1) Personal Assers > 50% of the assets-taking control of the company	Tax Exempt	-	TT	7
2) Shares or Capital Shares received through investments on personal assets transferred before 3 years	Tax Exempt	-	TT	7
<b>Buildings</b>				
a) General.....	Taxable	16	SD-ND	1
b) Houses (including garages).....	Tax Exempt	-	TT	Table
Exception:				
1) With Hotel Services.....	Taxable	7	SD-ND	1
2) With option to buy.....	Taxable	7	SD-ND	1
<b>Land<sup>(14)</sup></b>				
<sup>(13)</sup> In Andalusia, 2%. In Madrid, 1.5%. <sup>(14)</sup> With Exceptions.....	Tax Exempt	-	TT	Table

## TRANSFER PRICING

The Spanish legislation for Transfer Pricing has undergone major changes that must be fulfilled in order to avoid penalties by the Tax Administration.

### Documentation requirements

Documentation must be presented at the Tax Administration from the last date to file corporation tax.

Documentation will refer to the tax period in which transactions between related parties took place, but it can be used subsequently, with the necessary amendments.

Two types of documentation are distinguished:

- Documentation regarding the group to which the taxpayer belongs (Master File)
- Taxpayer specific documentation (Country Specific File)

Documentation will be simplified or not requested, although the valuation will be needed, for the following transactions:

- Between related parties of a group which transaction volume is under **M€** (small-sized entities)
- Between entities of the same consolidated tax group
- Between members of a Joint venture
- Transactions carried out in takeover bids or initial public offerings

	Tax Administration	Penalty(*)
Complete Documentation	Without Value Adjustment	Exempt
	With Value adjustment	Exempt
Incomplete, inaccurate or false Documentation	Without Value adjustment	1,500€ per omitted data 1,500€ per group omitted data
	With Value Adjustment	15% of adjustment, with a minimum of: 3,000€ per omitted data 30,000€ per group omitted data

# UHY Fay & Co

## Madrid

C/ Velázquez, 31-6º  
28001 Madrid  
Tel. +34 **91 426 07 23**  
Fax: +34 **91 426 07 24**

## Barcelona

Diagonal 458, 7ª Planta  
08006 Barcelona  
Tel. +34 **93 419 88 21**  
Fax: +34 **93 419 88 81**

## Málaga

Plaza de la Solidaridad, 7  
Edif. Araucaria, 11, 6ºB  
29002 Malaga  
Tel. +34 **95 206 04 69**  
Fax: +34 **95 206 14 74**

## Marbella

Centro de Negocios  
Puerta de Banus  
29660 Marbella  
Tel. +34 **95 276 40 65**  
Fax: +34 **95 282 59 34**

*This Tax Card is intended for general guidance only. No responsibility for loss occasioned to any person acting or refraining from actions as a result of any material in this publication can be accepted. The content can not replace professional advice.*

To order additional copies of this Tax Card please contact us at: [mailbox@uhy-fay.com](mailto:mailbox@uhy-fay.com)

Copyright © UHY Fay & CO

# Tax Card 2011

# UHY Fay & Co

Registered Auditors

Consultants

Tax Advisors

Legal Advisors

Labour Advisors

**Tax Card 2011**  
[www.uhy-fay.com](http://www.uhy-fay.com)

## INCOME TAX

### Tax deductible Per Diem and Mileage allowances:

PER DIEM FOR MEALS (€/day)		Hotel (€/day)	Mileage (€/day)	
Spain	Overnight stay 53,34	Invoiced amount	Public Transp.	Private Transp.
	Non overnight 26,67		Invoiced amount	0,19€/km Toll/Parking Invoiced amount
Abroad	Overnight stay 91,35	Invoiced amount		
	Non overnight 48,08			

### Reductions:

a) Employment earnings<sup>(1)</sup>:

NET EMPLOYMENT EARNINGS	REDUCTION
Up to 9,180€	4,080€ per year
From 9,180,01€ to 13,260€	4,080€-(Net Employment Earnings-9,180€) x 0,35
More than 13,260€ or other income different from the employment earnings > 6,500€ (excluding tax free earnings)	2,652€ per year

(1) Increased by 100%  $\left\{ \begin{array}{l} \text{-Employees > 65 who continue to work} \\ \text{-Geographical mobility of unemployed taxpayers (2 years)} \end{array} \right.$

b) Disability: between 3,264€ and 7,242€

### Individual and family minimum:

- a) Standard: 5,151€  
 b) From 65 years: + 918€  
 c) From 75 years of age: + 1,122€  
 d) Dependants: between 1,836€ and 4,182€ plus 2,244€ for each child under 3  
 e) Other dependants: 918€, 65 years old and over: 1,122€ 75 years old and over  
 f) Disability, dependants (ascendants and descendants): between 2,316€ and 7,038€ plus 2,316€ for attendance

### Scale of the General Net Taxable Base (state + regional): <sup>(2)</sup>

Net taxable Base up to (€)	Gross Tax Payable	Reminder of tax base up to (€)	Applicable Rate (%)
0.00	0.00	17,707.20	12 %
17,707.20	2,124.86	15,300.00	14 %
33,007.20	4,266.86	20,400.00	18,5 %
53,407.20	8,040.86	66,593.00	21,5 %
120,000.20	22,358.36	55,000.00	22,5 %
175,000.20	34,733.36	onwards	23,5 %

### Tax rate applicable to the especial component of the tax base (state +

regional)<sup>3)</sup>: For the first 6,000€: 19%, for the rest: 21%.

<sup>(2)</sup>To the general net taxable base the rates approved by each Autonomic Community will be applied.

<sup>(3)</sup>Capital Gains and Losses generated by transferring Wealth Tax elements and the performance of certain Personal Assets.

### Deductions:

- Permanent Residence: 15 % of the amounts (up to 9,015€ per year) for the acquisition, refurbishing or home purchase saving accounts for taxpayers with taxable base inferior to 24,107,20 €
- Company saving account: 15 % of the amounts (up to 9,015€ per year).

### Obligation to declare:

- Net employment earnings: starting from 22,000€, €/year of one sole payer.
- Capital Gains + Earnings: starting from 1,600€, €/year.
- Deduction for permanent residence, saving-account, International double taxation agreements, pension plans.

## INCOME TAX FOR NON RESIDENTS

### Tax Rates:

- > With Permanent Establishment: 30%
- > Without Permanent Establishment<sup>(4)</sup>:
- Standard: 24%
- Pensions and passive assets: between 8% and 40%
- Capital Gains: 19%
- Interest and Dividends: 19%

<sup>(4)</sup>With no Double Taxation Agreed

## INHERITANCE & GIFT TAX (IGT)

### Inheritance:

a) Reductions: Personal Reductions:

Group	Kinship with the donor or deceased	€
I <sup>(5)</sup>	Descendants & adopted < 21 years For each year under 21 years Maximum Limit	15,956.87 3,990.72 47,858.59
II <sup>(5)</sup>	Descendants & adopted ≥ 21 years Spouses, adopted, and dependants	15,956.87
III	Collateral family members in 2nd and 3rd degree of kinship. Ascendants and descendants by affinity	7,993.46
IV	Collateral family members in 4th degree of kinship and other non family heirs	—

<sup>(5)</sup>Madrid: 99% reduction; Catalonia and Andalusia: Reduction of variable amount depending on the Group, with conditions.

b) Additional Reduction<sup>(6)</sup>:

- Family Business<sup>(7)</sup>: 95% of the value
- Permanent Residence<sup>(8)</sup>: 95% of the value with a limit of 122,606.47€
- IGT paid over the last ten years

<sup>(6)</sup>The asset must be kept for 10 years. In Madrid, Catalonia and Andalusia: 5 yrs. Catalonia: two new reductions: (a) from +75 years of age: 275,000€; (b) additional reduction of 50% to excess of taxable income.

<sup>(7)</sup>Andalusia: 99%

<sup>(8)</sup>Madrid: limit 123,000€; Catalonia: Limit 500,000€; Andalusia: 99,99% if it is the permanent residence of the recipient.

### Donations:

- a) Reductions <sup>(9)</sup>:
- Family Business of donors over 65 years, absolute permanent disability or disablement (95% of the value). The Investment must be kept for 10 years and right to exemption from the Net Wealth Tax.

<sup>(9)</sup>Madrid: reduction of 99% to the taxpayer included in Groups I & II; Catalonia and Andalusia: amounts donated for the acquisition of a permanent residence by descendants (95% of value). Maximum Tax Base:

Catalonia: 60,000€ < 36 years; Andalusia: 120,000€ < 35 years;  
 Catalonia: 120,000€ disabled > = 65%; Andalusia: 180,000€ disabled > = 33%

### Life Insurance:

- a) Reductions:
- 100 % with a limit of 9,195.49€ for the recipient spouse, ascendant, descendant, adopting person or adopted. Madrid: 9,200€; Catalonia: 25,000€.

## CORPORATION TAX

### Tax Rates:

- Standard: 30 %
- Small-sized businesses (Turnover < M€ 10 )
- First 300,000,00€: 25 %
- Remaining Taxable Income: 30 %

### Deductions to promote certain activities:

Main Deductions	%
Export Activites	Abolished
Company Contributions to Pension Plans	Abolished
Employment for disbaled	6,000.00€ per person and year worked
Book Edition	1,875
Film Production	18
Professional Education	1/2
R + D	25.5/42.5
Technological Innovation	8.5
Investment on Cultural Interest	5,625
Environment Protection	Abolished
Reinvestment of Additional profits	12

Tax Losses: compensated in the subsequent 15 years.

### Non deductible expenses:

- Dividends paid.
- Corporation tax.
- Fines, penalties, and surcharges due to delays on tax payment.
- Donations.
- Provisions for internal pension allowances.
- Gambling losses.
- Expenses for services rendered with tax havens.

## VALUE ADDED TAX (VAT)<sup>(10)</sup>

Tax Rates: Standard: 18% · Reduced: 8% · Super reduced: 4%

### Location of Services Supply:

As a general rule, services carried out in the Territory where the Tax is Applicable (TAI) will be those were:

- Businessman whose headquarters, permanent establishment, domicile or regular residence for which the service is supplied are in such territory.
- Individuals, not considered businessmen, when the headquarters or permanent establishment from which the services are supplied are located in the VAT territory.

### Special rules:

Service	Addressee	Location criteria for TAI if:
Related to property	Businessman, professional, individual	Property is located in TAI
Transport of passengers	Businessman, professional, individual	Part of the trip takes place in TAI
Transport of goods (not intra-EC)	Individual	Part of the trip takes place in TAI
Transport intra-EC	Individual	The trip starts in TAI
Cultural, artistic or sport performance	Businessman, professional, individual	The service is provided in TAI
Services provided electronically (outside UE)	Individual	The addressee resides in TAI
Catering (ship, plane or train)	Businessman, professional, individual	The trip starts in TAI
Catering (others)	Businessman, professional, individual	The service is provided in TAI
Meditation	Businessman, professional, individual	The operation takes place in TAI
Transport accessories	Individual	The service is provided in TAI
Work on property	Individual	The service is provided in TAI
Telecommunications	Individual living outside UE	The addressee resides in TAI
Renting transport means	Businessman, professional, individual	Transport means are given to addressee in TAI

<sup>(10)</sup> See Real Estate Transactions Section