

A GUIDE TO SELF EMPLOYMENT IN SPAIN

Introduction

In this guide, we provide basic information concerning how self employment works in Spain.

Being self employed is relatively straightforward when compared to using a limited or other type of company to trade. A few pointers comparing the two are provided at the end of this guide.

Although this guide provides enough information and guidance for an individual to set up self employment without a professional adviser, it would require a book to explain properly the vagaries of the Spanish tax and social security systems. The challenge for a non Spanish speaker would be considerable. Fortunately, there are many bilingual friendly advisers who will be pleased to help for a very reasonable fee!

We hope that this brief guide will at least provide a general understanding of the Spanish self employed system for the English speaking foreigner.

Registration formalities

Setting up as a self employed individual is not an especially complicated matter, at least by Spanish standards .

The first step for newly arrived foreigners is to obtain a tax identification number, an NIE. This takes a few days to arrange requiring a form 790 to be completed and presented to any bank with a payment of 9,45€. This form is then presented to the national police office in the area, with an original passport and a photocopy, plus a completed form EX-15 stating in box 4.2 the nature of the business activity and business address (home address if there is no specific business address). After 3-4 days the NIE certificate can be collected. An English version of this form can be printed from this webpage: http://extranjeros.empleo.gob.es/es/ModelosSolicitudes/Mod_solicitudes2/15-Formulario_NIE_y_certificados_EN.pdf

The next step is registration in the local tax office which is achieved completing a form 036/037. An appointment is required and obtained using the AEAT website. Google "AEAT cita previa" to find the correct website. The form 036/037 requires completion of the usual personal and business information and will commence value added and income tax filing obligations. A fortunate person may encounter a helpful tax officer who will assist in making a correct registration.

The last step is to visit the local social security office with the NIE, passport and 036/037 to register as an 'Autonomo'. This amusing youtube video that went viral says it all..... <https://www.youtube.com/watch?v=UZ5zJpC8GKo>

Bookkeeping formalities

Formal double entry bookkeeping is not required and it is sufficient to maintain simple registers of income and expenditure.

The rules concerning documentation for the purchase and sale of goods or services are rigid and proper invoices are always required. Invoices must always state the names, addresses and tax numbers for both the customer and the supplier. Other forms of expenditure that would not normally be subject to value added tax, like bank charges, local taxes, social security payments etc. may be justified with other documents, e.g. with entries in bank statements or with formal receipts.

To be tax deductible, expenses must be justifiable and related to the generation of trading income.

A general allowance of 5% of the net profit is given by the income tax system to make provision for expenses that are difficult to justify.

Fixed assets purchased for business use are deductible in accordance with the tax amortisation tables that approximate to the number of useful years of life.

Quarterly income tax (IRPF) filing

An income tax filing using form 130 is required each quarter. Income and expenditure is declared and the resulting profit is subject to income tax at 20%. Any income tax already deducted by business customers (see next section) will be deductible from the tax payable. These quarterly tax payments are 'on account' of the annual income tax bill.

The annual business income tax filing is incorporated into the normal annual income tax declaration (form 100) that incorporates all other sources of income and capital gains and makes provision for allowances and deductions. Please see our 2016 tax guide for more details on income tax rates and allowances.

New businesses (first year plus next two tax years) have a little help with cash flow because they are subject to quarterly income tax payments at 7% of profit, instead of the usual 20% tax rate. However, care must be taken because this does not affect the year end tax bill and so new businesses can have a shock in the following June when the annual tax bill has to be paid.

Tax retentions

Where the self employed activity involves the sale of personal services (i.e. where the business has no employees or no goods are being sold), in the case that the customer is a business, then the customer must deduct 15% (or 7%) of the charge and pay this to the tax office. This is known as a tax retention or withholding. The self employed person must issue sales invoices that show this retention. The customer that retains the tax pays this over to the tax office each quarter by filing form 111 and the annual retentions tax form 190.

The self employed supplier claims this tax paid as a credit in the next quarter's income tax filing.

The same retention system applies with the rental of business premises. The landlord invoices the rent with a tax retention that the tenant pays to the tax office.

Value added tax (IVA)

The Impuesto sobre el Valor Añadido (IVA) rates that apply to the sale/supply of goods and services are:

- ◆ General rate 21% - all supplies not subject to reduced rates.
- ◆ Reduced rate 10% - non basic foods, hostelry services, passenger transport, newly built dwellings.
- ◆ Super-reduced rate 4% - basic foods, certain pharmaceuticals, books and magazines.

The form 303 is filed each quarter declaring income and expenditure that is subject to IVA.

There is no exemption for IVA filing as exists in other EU countries. All businesses regardless of size must charge IVA on their sales and pay it over to the tax office each quarter.

At the end of the year an annual IVA filing form 390 is made declaring all the income and expenditure for the year.

In addition, a further tax filing, form 347, is due in February declaring all customers and suppliers with whom transactions, including IVA, have totalled 3.005,06€+ in the calendar year. For the curious, this odd limit derives from

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15 years ago when the limit was 500.000 Pesetas, translated at 166,386 Pestas/Euro. Who says Spain has not modernised....!

Simplified IVA system for self employed retailers

Many self employed retail trades are subject to a mandatory simplified IVA regime where, instead of accounting for IVA on income and expenditure, goods purchased for resale are subject to a surcharge on the normal IVA payable. The system is known as the 'recargo de equivalencia—RDE'.

Self employed retailers must notify all their suppliers so that the RDE surcharge is applied. The surcharges are as follows:

- ◆ 5,2% for goods are subject to 21% IVA rate.
- ◆ 1,4% for goods are subject to 10% IVA rate.
- ◆ 0,5% for goods are subject to 4% IVA rate.

No IVA filing obligations apply to those in this regime.

Simplified tax systems for some business activities (modulo) system

Many activities can benefit from the modulos system. The system was reputedly conceived in Italy in order to encourage small businesses to pay some tax. In the modulos system, taxable income is calculated according to the physical elements used in the trade. These vary according to the nature of a trade and can include, for example, the number of employees, electrical power used, number of tables in a restaurant and the length of a bar in a pub.

The system applies to IVA and income tax or just income tax, depending on the trade .

The system applies by default for the businesses it applies to but an election to opt out can made with form 036/037 when starting up the business or before the end of a tax year, in respect of the next tax year.

Social security contributions

Contributions vary slightly with the nature of the trading activity to account for the relative work risks associated with the types of trade. Additionally, elections can be made to voluntarily increase contributions to provide better social security cover for accidents and health problems. Another option is to base contributions on actual income in order to establish income related state pension rights, instead of the minimum income levels. Individuals mostly pay the minimum contributions of 266,14€ per month.

Social security incentives for new self employed businesses

Person has not been self-employed in the previous 5 years, regardless of age:

The main element of SS contributions relates to 'contingencias communes' (pensions, medical care etc). The contribution to this element is subject to a reduction for the first 18 months of activity:

- ◆ 80% reduction over the first 6 months.
- ◆ 50% reduction over the next 6 months.
- ◆ 30% reduction over the final 6 months.

Applying these reductions, the monthly payments would be:

Period	Reduction (%)	Reduction (€)	Net payable (€)
First 6 months	80%	213,63	<u>53,41</u>
Next 6 months	50%	133.52	<u>133,52</u>
Final 6 months	30%	80.11	<u>186,93</u>

The total saving over 18 months would be 2.563,58€

Reduction for newly self-employed under 30 years of age, 35 for women

For those under these ages who have not been self-employed in the previous 5 years, the following reductions apply to the *contingencias comunes* for up to 30 months:

- ◆ 80% reduction over the first 6 months.
- ◆ 50% reduction over the next 6 months.
- ◆ 30% reduction over the next 18 months.

Applying these reductions, the monthly payments would be:

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The total saving is 3,524.93€ over the 30 months .

Other business taxes

Impuesto sobre Actividades Economicas (IAE) is a municipal businesses tax based on arcane factors including business category, location, population of municipality and turnover. Fortunately self employed persons are explicitly exempt from this tax regardless of the size of the business.

A rubbish collection tax (basura industrial) will also be applied by the municipality depending on the nature, location and size of the business.

Tax filings calendar for self employed

20 April, 20 July and 20 October: Quarterly income tax form 130, retentions form 111 and 115(rentals) and IVA form 303

20 January: 4th quarter forms 111 and 115 (rentals)

31 January: 4th quarter IVA form 303 and income tax form 130. Annual forms IVA 390, retentions 190 and 180.

28 February: IVA related form 347

30 June: Annual income tax form 100

Self employed vs company trading

A company is subject to a great deal of formality in Spain, as in most developed countries. Although, bureaucratic Spain multiplies the problems, giving rise to the old adage: 'everything takes longer and costs more'

However, a company, typically a *sociedad limitada* or SL, provides limited liability, which would protect the personal wealth of shareholders from losses made by a company, in the event of the failure of the business. The same is not true for directors who mismanage a company that becomes bankrupt.

So, if the business activity involves risk then a company is always desirable.

The rules for deducting expenses from income are a little more generous for companies. Also the corporation tax rate is lower than income tax but this is only relevant when it is feasible not to draw out all the profits that are made.

Subject to these exceptions, self employment usually provides the most suitable method of making a living, where the business is small scale, does not involve employing many staff and does not involve commercial risks.

Administration for self employment is much simpler and costs are modest.

General warning: This guide is provided with the caution that it does not replace the need for proper advice tailored to the particular circumstances of an individual. Spanish regulations are constantly changing and whilst every effort has been made to ensure the accuracy of the contents the guide is provided without any responsibility on the part of the authors.