



tax accounts law and labour

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THE SPANISH EMPLOYEE INCOME TAX WITHHOLDING SYSTEM (RETENCIONES- IRPF)

The income tax withholding system for workers in Spain functions as a payment on account for personal income tax (IRPF). The system is commonly referred to as 'Retenciones'.

Employers are required to withhold a percentage of their workers' salary and pay this over to the Tax Office. The % applied by the employer will depend on the worker's salary level and personal circumstances which affect the tax free allowances and deductions.

Unlike other countries, most people in Spain need to file an annual income tax return before the end of June of the following year.

If salary retenciones have been too low for the worker, this is when a large and unexpected tax bill can surface.

In other countries the withholding tax system is more complete and avoids such problems. In the UK, for example, employees rarely, if ever, have to file an annual tax return.

This article is important for all employees who are new to employment in Spain as the retenciones system is relatively simple and can produce situations that cause substantial and unexpected tax costs.

Basic Functioning

Retenciones payments:

This is calculated by the employer based on the anticipated annual gross salary for the year, after making allowance for the personal and family situation of the worker (marital status, number of children, etc.), and some other deductions like pension plan contributions. No allowance whatsoever is made or can be made for any other income sources of the worker.

The employer uses tables provided by the Tax Agency to determine the applicable withholding percentage.

The worker communicates their personal circumstances by completing a Form 145 at the start of each year. This is optional but if not submitted the employer will have to apply minimum personal allowances.

If the worker believes that standard retenciones will not be enough, for whatever reason, then they can require the employer to apply a higher % and can change this during the year whenever required. Such applications must be made in writing.

Income Tax Return:

At the end of the tax year, the worker files their income tax return, where all tax information is disclosed, including salary from **all** employers, retenciones paid and claiming whatever additional deductions apply.

Note that the worker must declare **income from all other sources worldwide**.

It should be noted that the Spanish tax office receives information from over 100 other countries on income received by people living in Spain. This includes salary income.

As a matter of routine, the tax office uses the data feed from the tax systems of all the other countries to check Spanish resident tax declarations.

Situations that can cause insufficient retenciones

Some scenarios are likely to lead to retenciones made throughout the year not covering total tax due as shown by the annual income tax return:

Variations in Income:

If a worker has significant income variations during the year (for example, bonuses, commissions, or second jobs) that were not estimated in the employers retenciones calculations.

Other employments:

Where a person has multiple employers during the year, total retenciones are usually inadequate because the second or subsequent employer will not take account of income paid by previous employers.

Foreign salaries or pensions:

In the case the worker receives pensions or salaries from other countries, retenciones will be inadequate and extra tax will fall due on filing the annual income tax return.

Investment income:

Foreign income such as rentals, investments, or capital gains are not subject to automatic retenciones in Spain so will produce an annual tax bill. Where Spanish retenciones have applied the tax paid will be at a basic % rate and if the tax payer has substantial investment income extra tax will be paid annually.

Changes in Personal or Family Situation:

Changes such as marriage, divorce, or childbirth during the year that are not immediately communicated to the employer so that the retenciones can be recalculated. Note that it is the absolute responsibility of the employee to notify the employer of such changes on Form 145. Here is the form:

https://sede.agenciatributaria.gob.es/static_files/Sede/Procedimiento_ayuda/G603/mod145_es_es.pdf

Against these potential causes for retenciones being insufficient and leading to a large annual income tax bill, there are causes for reducing total tax that are not taken into account in the Modelo 145. Apart from deductions for donations, there may be contributions to pension plans made late in the year, or investments in a primary residence that were not considered in the withholding calculation.

If in any doubt, the worker should check their expected annual income tax bill and either plan for it in their personal cash flow or ask their employer to deduct a higher rate of tax for each remaining month of the year. The employer's HR department or external payroll service should be able to assist with this, otherwise an Asesoría Fiscal will certainly be able to provide this service.

Filing your annual income tax return

Numerous sources are available to help Spanish residents with filing their annual income tax declarations. The tax office itself has an online service and a telephone service. Some banks and town hall offices have staff who can help. Some employers even provide tax technicians to give this service free to their workers.

For normal Spanish residents with standard income sources paying retenciones on all their income, filing the annual income tax return can take just a phone call and a few minutes. The Spanish tax system is very 'joined up' and a tax office technician on the phone call has all your income and withholding tax data, as well as details of your deductible costs. They simply go through all this with you on the phone and ask questions to make sure you claim all your personal allowances. In such straightforward cases, there should be very little to pay and often tax is repayable to you. All you have to do is approve the tax return verbally and it is done.

Where more complex situations apply, especially when there is foreign income or substantial investment or property income, it is probably advisable to contract a tax specialist. Note that even apparently simple foreign pensions are incorrectly declared and taxed unless the adviser has the right experience.

Exemption from filing an annual income tax return

Individuals are exempted from filing in these cases (2023 tax year):

- 22.000€ per year if the income comes from a single Spanish employer.
- 14.000€ per year if the income comes from more than one Spanish employer, provided that the sums received from the second and other payers together exceed 1.500€.
- Investment and imputed income (second property ownership) totals less than 1.600€ per year.
- Capital gains from the sale of assets totals less than 1.000€ per year.

But beware! If you have suffered retenciones on salary or investment income, you probably can claim some tax back, but only if you file the annual income tax return. So, if you don't file you will lose this money.

For more details on this please check our article: <https://www.spenceclarke.com/articles/income-tax-exemption-from-filing-an-annual-income-tax-declaration>

Arriving and leaving Spain – special cases

It is also important to understand that Spain has a strange regime for a person that lives in Spain for less than a year, as is typical in the year of arrival and year of departure. You have live in Spain for at least 183 days in a calendar (tax) year to be classified as ‘tax resident’ for that year.

This leads to some strange situations:

- A person arrives in Spain having previously lived and worked in Holland on the 3 July 2023, decides to stay and get a job. On 31 December they would have been living in Spain 182 days, i.e. less than 183 days. This is not enough time to be classified as a tax resident of Spain. They should not file an ordinary Spanish income tax return but may need to file a different return as the income tax rates for non-residents are different than for residents. Any income generated in Holland for 2023 is not taxable in Spain.
- A person arrives on 30 June 2023, decides to stay in Spain and gets a job, having previously worked in Switzerland. As 1 July to 31 December is 184 days, i.e. more than 183 days, the person is classified **as tax resident in Spain for the whole of 2023**. In this case the person is probably taxable on the whole of their 2023 income, including their salary from the previous job in Switzerland.

It’s actually even more complicated than this because most countries have special tax agreements (Double Tax Treaties) with Spain and some of these Treaties change the rules described above. Unfortunately, as this is a complex and dangerous area, the best advice has to be get professional advice. Be warned, tax office staff, especially those answering phone questions often get confused by Spain’s tax residence rules and international issues so double check their answers!

If you consult a professional on such matters you should also specifically ask for a advice on the percentage of retenciones your employer should apply.

Tax paid in a foreign country on foreign salary and other income

Many newly arrived foreigners think that income received from a non-Spanish employer is nothing to do with Spain. This is not true, every type of income from any worldwide source is almost certainly taxable in Spain. There are exceptions to this rule, but very few.

Along with this mistake, another error is often made. This where tax has been paid on the foreign salary or pension, leaving the individual with the impression that ‘I have paid tax on this so why should I have to pay tax again in Spain. Again, this is almost always wrong.

This is a particularly complex area and such assumptions are dangerous. In some cases, this can be correct and sometimes not. It all depends on the Double Tax Treaty that Spain has with the other country and every country’s treaty with Spain is different. And they don’t stay the same!

It is often necessary to pay the tax on this income in Spain and claim it back from the foreign country and sometimes not. It really is a complicated business!

Unfortunately, in such circumstances there is no alternative but to get professional advice

In summary...

1. You need to understand the % of retenciones that are applied by your employer and why. Your employer is not responsible for your income tax situation and will simply apply the regulations.
2. Take care with your form 145. It needs to be correct so that your employer can calculate your minimum % of retentions.
3. The minimum % retenciones applied by your employer may be too low in the case that you have had other jobs or other sources of income in the year. See the section above "Situations that can cause insufficient retenciones".
4. It is almost always better to file an annual income tax declaration, even if you qualify for exemption. For most people it is easy and quick, even for non-fluent Spanish speakers, and you may be due a tax repayment.
5. You can tell your employer to increase your % retenciones if you want to make sure you don't have extra tax to pay when you file your annual income tax return.
6. If your circumstances change during the year tell your employer to adjust your retenciones %.
7. If you have income from outside Spain of any type you will probably have to pay extra annual income tax.
8. If it is your first or last year in Spain, get your situation checked by a professional to avoid an unexpected tax bill.
9. If in doubt, contact Spence Clarke!

Spence Clarke specialises in Spanish tax, accounts, law and labour services, mainly to foreigners in Spain and Spanish nationals with international interests. Our cross-border knowledge helps clients adapt to the different system with the minimum of doubt and disruption. If you have any questions about this guide or any other matter [contact us](#), with no obligation, to see how we can help you. The contents of this guide are for general information only and provided without any responsibility and must not be relied upon without taking formal and specific advice from a suitably qualified professional adviser.
