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## A Guide to being Self-Employed in Spain

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### 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!

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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.

For newcomers, the first step is obtaining a tax identification number, commonly known as NIE. This process typically takes a few days but may vary depending on nationality, with EU citizens finding it easier. A visit to the foreign office and national police is mandatory, with appointments required and sometimes scheduled weeks in advance.

You'll need to complete a form 790, available at any bank, pay a small fee, provide your original passport and photocopy, and complete form EX-15, detailing personal information and the planned business activity in Spain.

Next, acquiring a digital certificate is necessary for easier access to public procedures. This can be obtained at public offices like the Town Hall or Tax Office, an appointment is recommended to avoid complications. Before the appointment, you need to complete an online form on the FNMT webpage.

With your NIE and digital certificate, you're ready to register with both the Tax Office and Social Security. Tax Office registration involves completing form 036 digitally, providing personal and business details, and initiating tax filing obligations.

Similarly, Social Security registration, also completed online, requires personal and business information. Note that Social Security registration, compulsory to all self-employed individuals, generates monthly payments, for access to public benefits like health care, unemployment, and retirement.

From 2023 the monthly Social Security fee has been based on income level and must be updated every two months for changes in income. Minimum contributions range from 230€ to 540€ per month in 2024, with corresponding benefits (e.g., sickness, maternity/paternity, pension) based on these contributions.

New self-employed individuals may qualify for benefits in the first years of activity, such as a monthly flat rate of 85€. Consulting with tax advisors is recommended to determine the most suitable benefits based on personal circumstances. For further information on amounts and calculations, visit our guide on Social Security for the self-employed:

<https://www.spenceclarke.com/wp-content/uploads/Spanish-Guide-Social-Security-Self-Employed-1.pdf>

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## Quarterly income tax (IRPF) filing (M130)

An income tax filing using form 130 is required each quarter. This form requires you to declare your income and expenditure, with the resulting profit subject to a 20% income tax rate. Additionally, there's an allowance for difficult-to-justify expenses, calculated by applying 7% to the net income, limited to a maximum of 2,000€.

The Tax Office offers the option to increase the percentage payable beyond the default 20% to spread the income tax payment throughout the financial year. These quarterly tax payments are considered 'on account' of the annual income tax bill and will be deducted from the income tax declaration due from April to June of the following year.

Exemptions: If you're registered for a professional activity and your invoices are required to include income withholding tax, you'll be exempt from submitting income quarterly tax returns when at least 70% of the total invoices you issue are invoices that include withholding income tax.

The annual business income will need to be declared together with the rest of your world-wide income in the regular annual income tax declaration (form 100). Newly registered self-employed individuals benefit from a 20% reduction in their net income for the first two years of activity, subject to certain conditions, to be included in this declaration.

## Tax retentions (M111)

Self-employed individuals registered in professional activities are required to apply withholding tax on their invoices when issued to businesses (companies or other self-employed individuals). The standard withholding tax rate is 15% of the gross amount. However, newly registered self-employed individuals are eligible for a reduced rate of 7% during the year of registration and the subsequent two years.

The amount withheld from the invoice is remitted by the client directly to the Tax Office on behalf of the self-employed individual using tax form 111. This withholding tax is then subtracted from the self-employed individual's annual income tax declaration.

A similar retention system is applied to renting business premises. The landlord invoices the rent with 19% tax retention, which the tenant pays direct to the Tax Office using tax form 115.

## Value added tax (IVA) (M303)

The Value Added Tax (VAT) rates applicable to the sale or supply of goods and services are as follows:

- General rate (21%): Applies to all supplies not subject to reduced rates.
- Reduced rate (10%): Applicable to non-basic food, hostelry services, passenger transport, and newly built dwellings.
- Super-reduced rate (4%): Applied to basic food items, certain pharmaceuticals, books, and magazines.

Tax form 303 is filed quarterly, or monthly if you register in a special regime, declaring income and expenditure subject to VAT. Sales to countries abroad are not subject to VAT due to location rules but must still be included in this tax return. Unlike in other countries, there is no exemption from VAT filing based on the volume of operations, and all self-employed individuals must charge VAT on their sales and remit it to the tax office each quarter. However, exemptions apply to certain activities, including sanitary and social assistance, educational and cultural activities, sports, and financial and insurance operations.

If you accumulate VAT credit during the year, you can request a refund in the fourth quarter tax declaration. This refund may take up to six months to process, and if delayed, interest will be applied, and refunded along with the requested amount.

Additionally, an annual VAT form 390 is submitted at the end of the year, declaring all income and expenditure for the year. This form is purely informative, and no payment is required. Another informative form is 347, which is due in February, declaring all customers and suppliers with whom transactions, including VAT, have totalled more than 3,005.06€ in the calendar year.

Finally, it's worth noting that there are different VAT regimes for self-employed retailers. Feel free to request further information on this matter if you plan to start a retail business as a self-employed individual.

### Tax filing calendar for self-employed

<b>20 April, 20 July, and 20 October:</b>	Quarterly income tax form 130, retentions form 111, rentals form 115 and IVA form 303.
<b>20 January:</b>	4th quarter forms 111 and 115
<b>31 January:</b>	4th quarter IVA form 303 and income tax form 130. Annual forms IVA 390, retentions 190 and 180.
<b>28 February:</b>	IVA related form 347
<b>30 June:</b>	Annual income tax form 100

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## Self-employed vs trading company

When embarking on a business venture, one inevitably faces the question: Is it more advantageous to establish a company or operate as self-employed? To answer this, several factors must be considered.

Firstly, it's evident that a company entails a significant degree of formality in Spain, as in most developed nations. A "brand" typically carries more commercial weight. However, the bureaucratic processes involved in setting up a company can be considerably more complex. For detailed information on company setup, you can refer to our guide here:

<https://www.spenceclarke.com/wp-content/uploads/guides/Starting-Business-in-Spain-02-2021.pdf>

Another crucial consideration is liability. A company, often structured as a Sociedad Limitada (SL), offers limited liability, safeguarding the personal assets of shareholders from losses incurred by the company in case of business failure. However, directors who mismanage a bankrupt company are not shielded from liability. Therefore, if the business involves inherent risks, establishing a company is generally advisable.

Regarding expenses, companies typically enjoy more favourable rules for deducting expenses from income compared to self-employed individuals.

From a tax perspective, corporations are subject to a fixed rate of 25% for Corporation Tax (23% if turnover is below €1M), while income tax for self-employed individuals is based on their income. Consequently, for higher incomes, operating as a company tends to be more tax-efficient than being self-employed.

Lastly, the Tax Office recognizes a company's existence when there's a proper company structure in place. Therefore, if all business activities are conducted solely by the shareholder's workforce without a formal company structure, the individual must operate as self-employed.

In summary, self-employment often represents the most suitable means of earning a livelihood for small-scale businesses with minimal staffing and limited commercial risks. Self-employment administration is simpler, and costs are generally modest.

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## Cost deductions from income, including cars and using a home for business purposes.

### General requirements for an expense to be deductible.

Tax regulations establish specific criteria for treating expenses as tax-deductible for self-employed individuals:

1. **Related to business activity:** Expenses must be directly related to the professional activity carried out by the self-employed person.
2. **Supported by invoices:** Expenses must be justified by corresponding invoices. While receipts may be accepted for certain expenses, the Tax Office often rejects them. Therefore, it's crucial to prioritise obtaining invoices.
3. **Invoices in the name of the self-employed:** Invoices must be issued in the name of the self-employed individual and recorded in their accounting records.

From the above criteria, demonstrating the direct relationship between expenses and the professional activity is often the most challenging. For instance, self-employed individuals often seek to deduct expenses related to home office costs. In such cases, it's necessary to determine the percentage of expenses that can be reasonably attributed to the business activity.

While any expense related to a self-employed person's business activity is potentially deductible, proper documentation and record-keeping are essential. Invoices must clearly show the expense's connection to the business activity. Any ambiguity may lead to a wrong interpretation by the tax inspectors during an inspection.

It's advisable to always request an invoice for every expense incurred, regardless of the amount. Receipts or simplified invoices are generally not deductible as they often lack sufficient identification of the expense. However, if combined with proof of payment, such as a credit card receipt, their validity may be enhanced.

In summary, maintaining accurate records, obtaining invoices for expenses, and ensuring their direct relevance to the business activity are crucial for claiming tax deductions effectively as a self-employed individual.

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### List of undisputed deductible expenses for IRPF purposes

Below we list the most common expenses that self-employed business traders can deduct, as indicated by the tax office:

- Purchase costs: purchased goods and materials in general. Note that in the case that you keep a stock of goods at the end of the year, the formula to calculate the annual expense is as follows: Expenses = initial stocks plus purchases during the year minus final stocks.
- Wages: payments to employees for salaries, extra payments, allowances for travel expenses, benefits in kind, bonuses, and indemnities.
- Social Security: contributions related to the employment of staff plus those corresponding to the self-employed activity.
- Other employment expenses: this includes training expenses and insurance for staff.
- Leases: rents, royalties, technical assistance, leasing fees.
- Repairs and maintenance in general: except improvements that increase the usage life of fixed assets because the tax deduction for fixed assets is annual depreciation.
- Professional services: fees of advisors, lawyers, auditors, notaries as well as the commissions of commercial agents.
- Other external services: expenses in research and development, travel costs, business and office insurance, banking commissions, advertising, marketing, electricity, water and telephone supplies and other office expenses not included in the above concepts.
- Deductible taxes: local rates (IBI), the business tax (IAE) and other local, regional, or national related taxes. Penalties, such as tax office fines are not deductible.
- VAT on the invoices received for the purchase of goods and services: Normally the VAT on these invoices is not a cost as this can be offset against the VAT on sales invoices. However, there are certain types of activities that are not subject to the VAT system, such as educational services, insurance, editing, etc. As the traders under these activities do not have the right to deduct the VAT, in these cases the VAT on the purchase invoices is considered as a deductible business cost.
- Financial expenses: interest on loans and credits in general.
- Depreciation: capital (fixed) assets, whether tangible or intangible, used for the activity. Calculations are made in accordance with the stipulations of income tax and corporation tax law.
- Other deductible expenses: purchase of books, subscription to professional bodies, expenses of attendance of events related to the activity (training courses, seminars).

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- Health insurance: premiums paid by the self-employed person, including spouse and children under 25 years of age, living in the family home, are deductible with a maximum of **500€ per person, per year** or 1.500€ for each of them with a disability. This is a beneficial measure for the self-employed as it provides an incentive to take care of their health and their families, while deducting their tax bill.

*Remember that the tax office is always entitled to challenge the validity of any cost deducted and can request explanation of why the expense is related to the business activity.*

- Last, but not least, Pension Plans: These plans are an important tool for long-term savings and retirement, offering specific tax advantages. The maximum annual contribution limit, to an individual pension plan, **may not exceed €1,500**.

If your spouse has a pension plan and earns less than €8,000 per year, you can have an additional reduction of €1,000 per year.

As a self-employed person you can contract a "**plan de pensiones de empleo simplificado**" which allows you to reduce your taxes for contributions made up to **€4,250 per year**. This is also applicable for the special scheme of "Autonomos Societarios".

In case your financial adviser has not informed you about this type of product, we can introduce you to our insurance advisor for more information.

### "Special" deductible expenses

These expense items are common amongst the self-employed, with the tax office regarding them as **grey areas**, due mainly to the likelihood of a **significant degree of personal usage**. The tax office has demanded greater proof of these expenses for a business activity.

This expense has different tax treatments depending on whether income tax or VAT rules are applied. Although both laws come from the same source, the tax office, each law presents differences in the deduction percentages for the same type of deductible expense.

### **Commercial unit or office for the activity**

The tax office must be notified at the time of registration of the business activity, together with the premise details, by completing the corresponding tax form 036 or 037. At the time of moving to new premises, a new 036 or 037 must be filed informing the change of address. All expenses associated with such premises can be deducted: rent, renovations, maintenance, electricity, water, telephone, expenses associated with the mortgage or insurance. You can also depreciate the investment and deduct loan interest in the case of a purchase.



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### ***Use of home as office***

As in the previous case, the tax office must be notified by a tax declaration (form 036 or 037) the home address as the office address, and in this case, introduce the percentage of the office from the entire property dedicated to the business activity. This is calculated according to the proportion of square metres of the areas dedicated to business use compared to the total area of the property. Typically, business use is restricted to one or two rooms, perhaps **between 15% and 30% of the home**.

As a day has 24 hours and normally a person works 8 hours, a justified proportion of all property costs such as rent, community fees, electricity, internet, phone, insurance etc. can be deductible. Any expenses associated with the home, after applying the pro-rata for dedicated business use, **are subject to a deduction of only 30% in respect of utility bills**. Note that these expenses are ONLY deductible for income tax purposes.

For VAT/IVA purposes, the regulations only allow the deduction of IVA paid on such expenses **if there is no mixed use whatsoever**. Mixed use is inevitable for services such as internet, telephone, etc. Therefore, a solution would be to separate the services and to have two contracts, one for business and one for personal use.

It is important to note that there is a disadvantage when claiming the use of an office in your home.

Linking your home to your business activity may increase your capital gain tax (CGT) payable when selling your home, as the part of the property that was considered your office would not benefit from the CGT deductions available to the rest of your home. The income tax saved through the 30% deduction of expenses could generate an extra CGT bill.

### ***Mobile phone***

A self-employed person having a single mobile phone line encounters issues. Income tax rules explicitly state that the mixed use (personal vs. business) of any service disqualifies the expenses as deductibles for income tax purposes.

For VAT purposes, the regulations are less clear, and experience shows that currently, the tax office will accept a 50% deduction on VAT paid on mobile phone services.

By far the best arrangement is **to have two mobile phone lines**, one for business and the other for personal use. In this case the business telephone will be 100% deductible for income tax and for VAT purposes.

Package deals that include TV, mobile phone, and fixed-line usage are viewed very negatively by tax officers, who will certainly disallow income tax deduction and will not accept 50% of VAT deduction.

### ***Private vehicle and associated expenses (maintenance, petrol, insurance ...)***

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After the “use of house as office”, the second most popular question from the self-employed is “can I deduct my car costs”.

As a general rule for income tax purposes, travel costs can only be admitted as expenses where the self-employed person is engaged in activities involving the transport of passengers, goods, driving instruction, or commercial activities, including taxi drivers, transporters, delivery drivers, messengers, driving schools, commercial agents, and sales representatives.

The remaining self-employed businesses will not be able to deduct all their expenses for income tax and will only be able **to deduct the proportion of expenses that relate to business travel**. We suggest keeping a log to record the car usage, from which the proportion of business travel can be calculated. Business trips must be explained and cross-referenced to sales invoices, correspondence or similar proof that supports the claim for business trips.

A good example of this might be a property sales agent who can support trips with emails to potential buyers or sellers and eventual commission invoices.

When using a car for business use, there are explicit rules that state that 50% of the IVA paid on vehicle costs may be deducted if substantial business usage can be proven. Renting vehicles or financial car leasing contracts are subject to the same fiscal limitations mentioned above.

### ***Travel and Public relations expenses***

Travel expenses for public transport (planes, trains, and taxis) can be deducted as well as expenses for staying in hotels and living expenses such as meals. However, problems arise in costs associated with trips that fall outside the normal scope of a person’s business activity. The tax office may also challenge travel at weekends and to locations that appear unrelated to business.

Additionally, expenses regarding public relations meals are one of the most controversial. It is suggested that you limit it to the logic of your activity and always write down in an expense form, diary or on the back of the invoice with whom you had the meal, and how this relates to your business activity.

### ***Restaurant costs during the working days***

Self-employed workers may deduct 26.67 euros per day (48.08 euros if abroad) when they do not stay overnight. The allowance increases to 53.34 euros per day when they spend the night in Spain and 91.35 euros if they are abroad. However, it must meet the following requirements: restaurants and catering establishments expenses **must be paid by electronic means** and the relevant invoice must be received (therefore cash payments are not allowed). The tax office has announced that it will clamp down on these types of expenses, so extra care is needed.

Meals or lunch expenses are allowable for the self-employed person when they are required to visit clients outside of their residency area (or usual office place). They must always prove that it is due to their work activity.

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An example of a non-allowable expense would be if a self-employed professional who spends the day working in an office and has lunch at a local restaurant, this wouldn't qualify as an allowable expense.

### **Cost of clothing**

Only the cost of professional clothing such as protective clothing, uniforms, or other garments, perhaps with the business logo, are allowed. Performing artists are more likely to receive a more flexible interpretation of what clothing is considered reasonable but must always be able to provide justification to sceptical tax inspectors who are principally motivated by the desire to disallow claimed costs.

### **Fiscally non-deductible expenses**

The following items will not be considered deductible expenses.

- Fines and penalties, including surcharges for late submission of tax returns.
- Within the context of business expenses, charitable donations are usually not allowable, unless it concerns those registered as public utility associations (Article 10. Law 49/2002, of 23 December). In cases of public utility associations, the deduction is allowable for up to 80% of the donation amount, with a limit of 150€.

If exceeding the mentioned limit amount, the allowed deduction is 35%.

However, the total amount donated cannot exceed 15% of the net annual taxable income.

Documentary proof is required, usually in the form of a receipt from the charity showing its registered number.

- Expenses involving services supplied by persons or entities resident in tax havens. However, goods purchased from tax havens are deductible although subject to additional scrutiny by tax officers.

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*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 Spanish 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.*

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