

西班牙税收居民身份认定规则

一、个人

个人所得税纳税人包括：

- a) 习惯性居住地位于西班牙境内的个人。
- b) 虽然习惯性居住地位于西班牙境外，但符合个人所得税法第十条规定的个人。

-a) “习惯性居住地位于西班牙境内的个人”是指满足下列任一条件的个人：

在一个公历年度内在西班牙境内居住超过 183 天。在判定在西班牙境内是否为永久居住时，偶尔离境的，不扣减日数，除非纳税人证实其符合另一税收管辖区的税收居民身份。若前述辖区为避税地的，税务机关有权要求纳税人提供一个公历年度中在该避税地居住超过 183 天的相关证明；

活动或经济活动的主要基地或中心直接或间接位于西班牙境内的个人；

被抚养人（如未法定分居的配偶和/或未成年子女）常住于西班牙境内的个人。如果实际情况有出入，可以提交证明材料。

拥有西班牙国籍的个人，即使其声明自己已变更为某一避税地的税收居民，该个人在税收居民身份发生变化的纳税

年度以及随后的四个纳税年度内仍负有缴纳西班牙个人所得税的义务。

若个人不存在上述任一情况，则视为非居民。

-b) 拥有西班牙国籍但常驻境外的个人（例如外交使团成员、领事馆成员或国外执行公务的公职人员或公务员）及其配偶和未成年子女，仍应承担境内个人所得税纳税义务，但以下两种情况除外：

1) 该个人不是公务员，且在前述情况发生之前其常住地已位于西班牙境外；

2) 在上述情况发生之前，该个人未法定分居的配偶和未成年子女的常住地已位于西班牙境外。

相关税法规定

个人所得税纳税人——2006年11月28日颁布的关于个人所得税和公司税、非居民所得税和财产税的部分修订内容的第35号法令第8条，以下简称为 PITL。

- 习惯性居住地位于西班牙境内的纳税人

----PITL 第9条

- 习惯性居住地位于西班牙境外的纳税人

----PITL 第10条

相关网址：

<http://www.agenciatributaria.es/Non-resident taxation/Residency>

[issues](#)

a) 西班牙税收居民个人

b) 在西班牙境外工作的公务员的税收问题

相关法规的网址:

[http://www.agenciatributaria.es/Regulations and interpretative criteria/ Tax and customs regulations/Personal Income Tax \(PIT\)/ Basic regulation of the IRPF/Ley 35/2006, de 28 de noviembre, del Impuesto sobre la Renta de las Personas Físicas y de modificación parcial de las leyes de los Impuestos sobre Sociedades, sobre la Renta de no Residentes y sobre el Patrimonio.](http://www.agenciatributaria.es/Regulations and interpretative criteria/ Tax and customs regulations/Personal Income Tax (PIT)/ Basic regulation of the IRPF/Ley 35/2006, de 28 de noviembre, del Impuesto sobre la Renta de las Personas Físicas y de modificación parcial de las leyes de los Impuestos sobre Sociedades, sobre la Renta de no Residentes y sobre el Patrimonio.)

二、实体

满足下列条件之一的实体，视为西班牙税收居民：

- 依据西班牙法律组建；
- 注册地位于西班牙境内；
- 实际总机构位于西班牙境内。

不满足上述任一条件的实体视为非居民。

税务机关会根据下列情况，将位于免税国家或地区的实体认定为西班牙税收居民：（1）其主要资产直接地或者间接地由位于西班牙境内的资产构成；或者（2）其资产处置权的履行在西班牙境内；或者（3）其主要活动在西班牙境内进行，除非该实体可以证明其实际管理机构位于该免税国家或地区，且具有真实的经济目的和充足的商业理由，而非单纯地进行证券或其他资产管理。

相关税法规定

——居所和税务住所-2014年11月27日颁布的企业所得税第27号法令第8条。

相关网址:

[- http://www.agenciatributaria.es/Non-resident taxation/Residency issues](http://www.agenciatributaria.es/Non-resident%20taxation/Residency%20issues)

a) 西班牙法人居民

相关法律的网址:

[- http://www.agenciatributaria.es/Regulations and interpretative criteria/Tax and customs regulations/Personal Income Tax \(PIT\)/Corporation Tax/ Basic regulation of the Corporation Tax/ Ley 27/2014, de 27 de noviembre,del Impuesto sobre Sociedades. \(BOE, 28-noviembre- 2014\).](http://www.agenciatributaria.es/Regulations%20and%20interpretative%20criteria/Tax%20and%20customs%20regulations/Personal%20Income%20Tax%20(PIT)/Corporation%20Tax/Basic%20regulation%20of%20the%20Corporation%20Tax/Ley%2027/2014,de%2027%20de%20noviembre,del%20Impuesto%20sobre%20Sociedades.%20(BOE,28-noviembre-2014).)

三、不视为税收居民的实体

一般而言，除依据民法设立的无商业目的的社团外，西班牙税收居民法人实体负有企业所得税纳税义务。

除法人实体外，以下位于西班牙境内的非法人实体也负有企业所得税纳税义务:

——1981年8月3日颁布的皇家法令第1776号规定的农业加工公司;

——2003年11月4日颁布的关于集合投资机构的第35号法令规定的投资基金;

——1982年5月26日颁布的关于集团和临时合资企业（TJV）以及区域性工业发展企业税务系统的第18号法令规定的临时合资企业；

——2014年11月12日颁布的关于风险投资实体、其他封闭型集合投资实体和管理公司的第22号法令规定的风险投资基金和封闭型集合投资基金。该法令对集合投资机构的第35号法令进行了修订；

——11月29日20052/1号皇室法令颁布的关于养老基金和养老金方案的相关法规规定的养老基金；

——1981年3月25日颁布的关于抵押市场的第2号法令规定的抵押市场监管基金；

——1992年7月7日颁布的关于房地产投资基金、投资公司以及抵押证券化基金的第19号法令规定的抵押证券化基金；

——1994年4月14日颁布的支持西班牙二次银行信贷调整和修改金融体系的第3号法令第5条附加规定所提及的资产证券化基金；

——1988年7月28日颁布的关于证券市场第24号法令规定的投资担保基金；

——1980年11月11日颁布的关于地方公共基金或相关区域立法的第55号法令规定的公共基金管理机构；

——2012年11月14日颁布的关于信用机构重组和解散的第9号法令第10条附加规定所提及的银行资产基金。

不具备法人资格的其他实体（例如尚未处理的遗产、由负有纳税义务的单个经济单位或者单个资产集团构成的合资产权实体）不承担企业所得税，而是依据穿透原则将收入在合伙人、继承人、联名业主或者相关参与者之间分配，而后再征税。

由于西班牙的税收主要根据居住地确定，因此首先应依据 PITL 第 9 条的规定或者公司法第 8 条的规定，确定合伙人、继承人、联名业主或者相关参与者的习惯性居住地，进而据此确定其是否为西班牙税收居民或非居民。在认定非居民实体时，须考虑该实体在西班牙境内是否设有常设机构。最后，根据穿透原则，实体的收入应依据 PITL 第 89 条的规定在合伙人、继承人、联名业主或者相关参与者之间进行分配，进而确定纳税义务。

相关税法规定

纳税人——2014年11月27日颁布的关于企业所得税的第27号法律第7条。

纳税人——2003年12月17日颁布的一般性税法第58号法律第35条。

收入分配——PITL 第 86 至 90 条

相关网址：

<http://www.agenciatributaria.es/Regulations and interpretative criteria/ Tax and customs regulations>

四、联系方式

General Deputy Directorate for International Taxation

电子邮件: Fiscalidad.international@tributos.minhap.es

西班牙纳税人识别号编码规则

一、纳税人识别号介绍

西班牙纳税人识别号一般载于官方身份证明文件上。

西班牙纳税人识别号是用于税收和海关相关事务的唯一识别号，由九位字符组成，最后一位是校验字母。

对于拥有西班牙国籍的自然人，纳税人识别号一般载于内政部（或警察总局）颁发的国家身份证（DNI）上。税务机关会依申请向没有 DNI 的西班牙人提供以 L（非居民）或 K（14 岁以下的西班牙税收居民）开头的纳税人识别号。

对于无西班牙国籍的自然人，纳税人识别号是内政部颁发的外国人身份识别号（NIE）。没有 NIE 但因从事涉税活动而需要纳税人识别号的外国人，可以在取得正式的 NIE 前，获取以 M 开头的临时纳税人识别号。

法人实体有义务获取由税务机关发放的纳税人识别号。

有关强制获取纳税人识别号（TINs）的其他信息

问题 1——您所在辖区是否自动为所有税收居民发放纳税人识别号？

个人

是

实体

是

问题 2a——如果不是，请您描述一下在何种情况下，个人无

法自动取得纳税人识别号？

问题 2b——如果不是，请您描述一下在何种情况下，实体无法自动取得纳税人识别号？

二、纳税人识别号编码规则

格式	编码规则	适用情况
自然人		
99999999L	8位数字 + 1位校验字母	西班牙自然人: DNI
L9999999L	字母L + 7位数字 + 1位校验字母	无DNI的非居民
K9999999L	字母K + 7位数字 + 1位校验字母	无DNI的14岁以下西班牙税收居民
X ó Y ó Z 9999999	字母X/Y/Z + 7位数字 + 1位校验字母	有NIE的外国人
M9999999L	字母M + 7位数字 + 1位校验字母	无NIE的外国人
非自然人		
L99999999	大写字母 + 7位数字 + 校验码	适用于非自然人。 第一位字母表示： -西班牙的实体 (A, B, C, D, E, F, G, H, J, P, Q,

		S, U, V) -外国实体 (N) -非居民常设机构 (W)
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三、如何找到纳税人识别号

纳税人识别号在下列官方身份文件中显示：

1.1 个人身份证

1.1.1 2006 前的个人身份证



1.1.2 电子身份证

2006 年 3 月后开始启用的电子身份证



第一姓
第二姓
名

国民身份证号 (纳税识别号)

1.1.3 外国人居住证



NIE (纳税识别号)

1.2 纳税人识别卡

纳税人识别卡以信件方式邮寄给获得纳税人识别号的自然人或非自然人，纳税人可以通过登录国家税务局网站验证真伪。



1.3 新版驾照

新版驾照自 2004 年 11 月后适用,与信用卡同等大小(长 9 厘米宽 6 厘米)



四、国内网站信息

关于纳税人识别号的信息

http://www.agenciatributaria.es/AEAT.internet/en_gb/Inicio/La_Agencia_Tributaria/Campanas/Censos_NIF_y_domicilio_fiscal/Censos_NIF_y_domicilio_fiscal.shtml

如果咨询顾问拥有国家税务局认可的电子证书，需要验证第三方的纳税人识别号是否正确或已注册，可以登录网站www.agenciatributaria.gob.es。

任何人可以在国家税务局网站上验证纳税人识别号的真伪。在网页中选择“通过电子号码验证纳税人识别号”。如果纳税人有正式通知书，则可以选择“通过安全验证码验证文件”进行验证。

五、联系方式

暂无。

资料来源:

西班牙税收居民身份认定规则:

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/SPAIN-Tax-Residency.pdf>

西班牙纳税人识别号编码规则:

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/SPAIN-TIN.pdf>

Spain - Information on residency for tax purposes

Section I - Criteria for Individuals to be considered a tax resident

Taxpayers liable to PIT:

- a) Individuals whose habitual residence is within the Spanish territory.
- b) Individuals habitually resident abroad due to any reason included in Article 10 of this Law.

-a) An individual is resident in Spanish territory when any one of the following circumstances apply:

They have stayed longer than 183 days in Spanish territory over the calendar year. In order to determine the permanence in Spanish territory, occasional absences are included, except if the taxpayer accredits their residency in another country. In the case of countries or territories labelled as tax havens, the Tax Administration can demand proof of stay in that tax haven over a period of 183 days within the calendar year.

They situate the main base or centre of their activities or economic activities, directly or indirectly, in Spain.

They have dependent not legally separated spouse and/or underage children who are usually resident in Spain. This latter situation accepts evidence to the contrary.

Individuals of Spanish nationality who accredit their new fiscal residence in a country or territory labelled as a tax haven will not lose their status as taxpayers for Individual Income Tax. This rule is of application during the tax period in which the change of residence occurs and for the next four tax periods.

Otherwise, where none of the previous situations applies, an individual is considered as non-resident in Spain.

-b) Individuals with Spanish nationality whose usual residence is abroad (these may be, for example, members of our diplomatic missions, consular offices or holders of public offices or civil servants carrying out official work abroad), along with their spouses and children who are minors, are subject to payment of Personal Income Tax, with two exceptions:

Individuals who are not civil servants and whose usual residence was already abroad before any of the aforementioned circumstances arose.

When the usual residence of their non-legally separated spouse or children who are minors was abroad before any of these circumstances arose.

Relevant tax provisions

- Taxpayers liable to PIT – Article 8 of Law 35/2006, of 28 November, on the Individuals Income Tax and partial amendment of the Laws regulating Corporation Tax, Non Resident's income tax and Wealth Tax, hereinafter PITL.
- Taxpayers with habitual residence in the Spanish territory - Article 9 of PITL.
- Taxpayers with habitual residence abroad - Article 10 of PITL.

Web page

- [http://www.agenciatributaria.es/Non-resident taxation/Residency issues:](http://www.agenciatributaria.es/Non-resident%20taxation/Residency%20issues)

- a) Individual resident in Spain
- b) Taxation of Spanish civil servants working abroad

Regulations:

-[http://www.agenciatributaria.es/Regulations and interpretative criteria/ Tax and customs regulations/Personal Income Tax \(PIT\)/ Basic regulation of the IRPF/Ley 35/2006, de 28 de noviembre, del Impuesto sobre la Renta de las Personas F ícas y de modificación parcial de las leyes de los Impuestos sobre Sociedades, sobre la Renta de no Residentes y sobre el Patrimonio.](http://www.agenciatributaria.es/Regulations%20and%20interpretative%20criteria/Tax%20and%20customs%20regulations/Personal%20Income%20Tax%20(PIT)/Basic%20regulation%20of%20the%20IRPF/Ley%2035/2006,%20de%2028%20de%20noviembre,%20del%20Impuesto%20sobre%20la%20Renta%20de%20las%20Personas%20F%C3%ADcas%20y%20de%20modificaci%C3%B3n%20parcial%20de%20las%20leyes%20de%20los%20Impuestos%20sobre%20Sociedades,%20sobre%20la%20Renta%20de%20no%20Residentes%20y%20sobre%20el%20Patrimonio)

Section II - Criteria for Entities to be considered a tax resident

An organisation is considered to be resident in Spain when one of the following requirements are satisfied:

- That it was constituted according to Spanish law.
- That its registered address is in Spanish territory.
- Or that its effective headquarters are based in Spanish territory.

Otherwise, those organisations that do not satisfy any of the three foregoing requirements are considered to be non-resident.

The Taxation Office considers an organisation based in a tax-free country or territory as resident in Spain when its main assets, directly or indirectly, consist of assets located or rights that are fulfilled or exercised in Spain, or when its main activity is carried out therein, unless it accredits that its direction and effective management take place in that country or territory, and that its incorporation and operations have a valid economic motivation and substantive business reasons other than the simple management of securities or other assets.

Relevant tax provisions

- Residence and tax domicile – Art éle 8 of Law 27/2014, of 27 November on CIT.

Web page:

- [http://www.agenciatributaria.es/Non-resident taxation/Residency issues:](http://www.agenciatributaria.es/Non-resident%20taxation/Residency%20issues)

- a) Legal person resident in Spain

Regulations:

-[http://www.agenciatributaria.es/Regulations and interpretative criteria/Tax and customs regulations/Personal Income Tax \(PIT\)/ Corporation Tax/ Basic regulation of the Corporation Tax/ Ley 27/2014, de 27 de noviembre,del Impuesto sobre Sociedades.](http://www.agenciatributaria.es/Regulations%20and%20interpretative%20criteria/Tax%20and%20customs%20regulations/Personal%20Income%20Tax%20(PIT)/Corporation%20Tax/Basic%20regulation%20of%20the%20Corporation%20Tax/Ley%2027/2014,%20de%2027%20de%20noviembre,del%20Impuesto%20sobre%20Sociedades) (BOE, 28-noviembre-2014).

Section III - Entity types that are as a rule not considered tax residents

In general terms, legal entities resident in the Spanish territory are liable to CIT, except civil-law societies with no business purpose.

Apart from legal entities, some non-incorporated entities are also liable to CIT as regulated, when they reside in the Spanish territory.

- Agricultural processing companies regulated under Royal Decree 1776/1981, of 3 August, approving the Rules regulating the Agricultural processing companies.

- Investment Funds regulated by Law 35/2003, of 4th November on Collective Investment Institutions.

- Temporary joint ventures regulated by Law 18/1982, of May 26th, on the Tax System for Groupings and TJV, and for Regional industrial development companies.

- Venture capital funds and closed collective investment funds regulated by Law 22/2014 of November 12th regulating the venture-capital entities, other closed collective investment entities and closed collective investment institution management companies, modifying Law 35/2003 of November 4th on Collective investment Institutions.

- Pension funds regulated by the Consolidated Text of the Law Regulating Pension Funds and Pension Schemes, approved by Legislative Royal Decree 1/20052, of November 29h.

- Mortgage market regulatory funds, regulated by Law 2/1981, of 25th March regulating the mortgage market.

- Mortgage securitisation funds, regulated by Law 19/1992, of 7th July on the Regime of Real Estate Investment Funds and Companies and Mortgage Securitisation Funds.

- Asset securitisation funds referred to in the Fifth Additional Provision of Law 3/1994, of April 14th which aligns the Spanish regulations on Credit to the Second Banking Coordination and amends some aspects of the financial system.

- Investment Guarantee Funds regulated by Law 24/1988, of 28th July on Securities Markets.

- Associations owning communal mounts regulated under Law 55/1980, of November 11th on Local Communal Mounts or the relevant regional legislation.

- Bank Assets Funds referred to in the 10th Additional provision of Law 9/2012, of 14th November on reorganisation and winding-up of credit institutions.

Other entities without legal personality (such as unsettled estates, joint-property entities, that constitute a separate economic unit or a separate group of assets liable to taxation, are not liable to CIS but taxed under an allocation system (look-through taxation) under which the income is allocated to the partners, heirs, co-owners or participants. The taxation in Spain will depend on their residency therein. Therefore, the first step is to determine the place where the partner, heir, co-owner or participant has his/her habitual residence under the provisions of Article 9 of PITL in the case of an individual, or under Article 8 of the Companies Law in the case of legal persons. The conclusion from that analysis is that the partner, heir, co-owner or participant of the entity under the allocation system is taxed as resident or non-resident in Spain. In the case of non-residents, the existence or not of permanent establishment in Spain will be considered.

Finally, income derived by entities under allocation system shall be allocated to the partners, heirs, co-owners or participants under the provisions of Article 89 of PITL.

Regulations:

- Taxpayers – Article 7 of Law 27/2014, of November 27th on CIT.
- Taxpayers – Article 35 Law 58/2003, of 17th December, General Tax Law.
- Income Allocation – Articles 86 to 90 of PITL.

Web page:

[-http://www.agenciatributaria.es/Regulations and interpretative criteria/ Tax and customs regulations](http://www.agenciatributaria.es/Regulations_and_interpretative_criteria/Tax_and_customs_regulations)

Section IV - Contact point for further information

General Deputy Directorate for International Taxation.
Fiscalidad.international@tributos.minhap.es

Spain - Information on Tax Identification Numbers

Section I – TIN Description

Spain issues TINs, which are reported on official documents of identification. TIN in Spain is unique for tax and customs purposes and contains nine characters, the last of them is a letter for control (Natural persons) or a control character (Non - natural persons).

Natural persons of Spanish nationality: Generally, the TIN is the number on your National Identity Card, issued by the Ministry of Internal Affairs (General Directorate of Police). The Tax Administration will provide Spanish natural persons who are not obliged to possess a National Identity Card (DNI) with a Tax Identification Number (TIN) starting with an L (non-resident Spaniards) or a K (resident Spaniards under the age of 14 years), upon request.

Natural persons without Spanish nationality: Generally, their Tax Identification Number (TIN) is the Foreigners' Identification Number (NIE), likewise issued by the Ministry of Internal Affairs. Natural persons without Spanish nationality who do not possess a Foreigners' Identification Number (NIE) but need a Tax Identification Number (TIN) because they are going to engage in transactions involving Spanish taxation can obtain a Tax Identification Number starting with the letter M, that will have a transitory nature, until they obtain a Foreigners' Identification Number (NIE), where appropriate, also issued by the Tax Administration.

Concerning the entities, they are obliged to obtain a TIN, which is issued by the Tax Administration.

Additional information on the mandatory issuance of Tax Identification Numbers (TINs)

Question 1 – Does your jurisdiction automatically issue TINs to all residents for tax purposes?			
Individuals	Yes	Entities	Yes

Question 2a – If you answered no to Question 1 with respect to individuals, describe those instances where individuals are not being automatically issued a TIN.

Question 2b – If you answered no to Question 1 with respect to Entities (as defined by the CRS), describe those instances where Entities are not being automatically issued a TIN.

Section II – TIN Structure

Format	Explanation	Comments
Natural Persons		
- 99999999L	- 8 digits + 1 control letter	Spanish Natural Persons:

		DNI*
- L9999999L	- Letter L + 7 digits + 1 control letter	Non-resident Spaniards without DNI*
- K9999999L	- Letter K + 7 digits + 1 control letter	Resident Spaniards under 14 without DNI*
- X ó Y ó Z 9999999	- Letter X/Y/Z + 7 digits + 1 control letter	Foreigners with NIE**
- M9999999L	- Letter M + 7 digits + 1 control letter	Foreigners without NIE**
Non-Natural Persons		
-L99999999	- Initial Letter + 7 numbers + control character	NON- natural persons <i>The first letter reports:</i> - on legal form, whether it is a Spanish entity (A, B, C, D, E, F, G, H, J, P, Q, S, U, V) or, - character foreign entity (N), - or permanent establishment of a non-resident in Spain (W)

Section III – Where to find TINs

TINs are reported on the following official identity documents:

1.1. Personal Identity Card

1.1.1. Identity Card until 2006



1.1.2. Electronic Identity Card

On March 2006 the electronic identity card has been introduced.



1.1.3. Foreigners' Resident Card



1.2. Tax Identification Card

The tax identification card is sent enclosed to a letter to those natural or non-natural persons who obtain a TIN. This card shows an electronic code in order to verify its authenticity logging in the National Tax Agency's (Agencia Tributaria) website.

 <p>MINISTERIO DE ECONOMÍA Y HACIENDA</p>	 <p>Agencia Tributaria www.agenciatributaria.es</p>
TARJETA DE IDENTIFICACIÓN FISCAL	
Número de Identificación Fiscal:	M0200049H
Apellidos y nombre: PRUEBA DE ALTA DE EME	
Código Electrónico: 77C7EB454B027240	

1.3. New driving license

The new driving license is in force since November 2004. It has the size of a credit card (9 cm by 6 cm).



Section IV – TIN information on the domestic website

Information on TIN:

http://www.agenciatributaria.es/AEAT.internet/Inicio_es_ES/La_Agencia_Tributaria/Campanas/Censos_NIF_y_domicilio_fiscal/Censos_NIF_y_domicilio_fiscal.shtml

If the consultant has an electronic certificate recognized by the National Tax Administration can verify whether a third party's TIN is correct and registered, logging in the website www.agenciatributaria.gob.es

If the TIN holder shows the Tax Identification Card issued by the Tax Agency, any person, even without an electronic certificate, can consult its authenticity logging in the electronic code of the card in the Tax Agency website, option: “*verification of authenticity of the tax identification card by means of an electronic code*”. If he/she has the letter of formal notice, logging in “*Comparison of documents by means of Safe Verification Code*”, that can be found at the bottom of the letter.

Section V – Contact point for further information

Under consideration.