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# Tax measures in the General State Budget Act for 2022

**The tax measures approved by the State Budget Act for 2022 affect corporate income tax and personal income tax**

Legal flash | Tax  
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## Key aspects

The General State Budget Act for 2022 introduces significant tax measures affecting corporate income tax and personal income tax in Spain.

- > Specifically, regarding corporate income tax, the act approves a minimum tax liability.
- > As for personal income tax, new amendments are made to the tax and financial system governing individual and company contributions to social welfare systems.



Below we analyze some of the most significant tax developments approved under Act 22/2021, of December 28, 2021, on the General State Budget for 2022 (“GSBA 2022”), published in the Official Gazette of the Spanish State on December 29, 2021.

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## Corporate income tax

### 1. Minimum taxation

The GSBA 2022 approves a minimum taxation on corporate income tax (“CIT”) for tax periods beginning on or after January 1, 2022, which will affect taxpayers with a net turnover of at least €20 million in the previous year and those subject to the tax consolidation regime (regardless of their net turnover).

It excludes some companies from the scope of this measure, namely those with a reduced or a zero rate, such as investment companies with variable capital, financial investment funds, real estate investment funds and companies, and REIT regulated under Act 11/2009, among others.

Specifically, the GSBA 2022 states that the tax liability net of all credits and allowances cannot be lower than the result of applying 15% to the taxable base of this tax. This 15% rate increases to 18% in the case of credit institutions and companies dedicated to the exploration, research and exploitation of hydrocarbons (which apply a 30% tax rate instead of 25%).

The key concepts to bear in mind are the taxable base, the tax liability net of all credits and allowances (*cuota líquida*), and the minimum tax liability (*cuota líquida mínima*). The GSBA 2022 introduces into CIT regulations the concept of “tax liability net of all credits and allowances,” which was not previously included in tax rules, as the figure resulting from the total tax liability reduced by any applicable deductions and credits. It can never be negative.

The basis for calculating the “minimum tax liability” is the taxable base resulting from applying all adjustments to the accounting profit, including the adjustments to avoid double taxation (e.g., article 21 of the CIT Act), the capitalization reserve, and also offsetting negative tax bases. The 15% (or, if applicable, 18%) rate will be applied to this base to ascertain the minimum tax liability.

The GSBA 2022 makes a notable exception on applying this rule to companies that apply any or all of the following: (i) some allowances provided in the CIT Act, (ii) deductions for



investments carried out by port operators, (iii) deductions to avoid double taxation, and (iv) deductions applicable in the Canary Islands set out under Acts 20/1991 and 19/1994, on the Tax Regime of the Canary Islands. In these cases, it specifies that the tax liability resulting after applying these allowances and credits may be lower than 15% (or 18%, if applicable) of the taxable base. This means that these allowances and credits will not be restricted by the new rule on the minimum tax liability.

The rule on the minimum tax liability will affect taxpayers wishing to apply other deductions for investments or for carrying out certain activities (e.g., deductions for research, development and technological innovation). Therefore, applying the deductions in these cases cannot result in a rate lower than the minimum tax liability.

## 2. Reduction in the rebate applicable to housing rental companies

The GSBA 2022 reduces the credit amount provided in the special regime for housing rental companies (“REAV”) in the CIT regulations for income from housing rentals.

As seen above, the minimum tax liability will not reduce the amount of the credits applicable by these companies. This means that companies applying the REAV will not be directly affected by the new rule on minimum taxation. However, the GSBA 2022 approves a substantial reduction in the credit these companies benefit from.

Thus, to date, companies applying the REAV have benefited from an 85% allowance on the tax rate corresponding to income from housing rentals that meet certain requirements (this being the only tax benefit they can apply with regard to direct taxation). The GSBA 2022, effective for tax periods beginning on or after January 1, 2022, reduces the allowance from 85% to 40%. Thus, the rate for these entities will be 15% for income that can benefit from the allowance  $[(100 \times 25\% - (40\% \times 100 \times 25\%)) = 15]$ . Note that this amendment affects all companies subject to the regime, regardless of their net amount of turnover or whether they belong to a consolidated tax group.

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## Personal income tax

### Reductions in the taxable base for provisions and contributions to social welfare systems

The GSBA 2022 introduces new amendments, complementing those approved a year ago in the General State Budget Act for 2021, that affect the tax and financial system governing individual and company contributions to social welfare systems, and will enter into force on



January 1, 2022.

It is worth noting that the GSBA 2021, effective for 2021, made a downward adjustment—from €8,000 to €2,000 annually—of the quantitative limit of tax reduction on the personal income tax base for contributions to social welfare systems, excluding company contributions, in which case the amount allowed increased from €2,000 to €10,000 (i.e., by an additional €8,000). This measure was approved to boost on a preferential basis employment pension plans.

The GSBA 2022, which comes into force on January 1, 2022, makes another downward adjustment by setting the maximum quantitative limit of joint tax reduction at €1,500 annually (in contrast to the €2,000 established under the GSBA 2021).

However, the increase over the previous limit, when that increase derives from company contributions, is now set at €8,500 annually in the GSBA 2022 (instead of the €8,000 established under the GSBA 2021), to maintain the maximum amount at an annual €10,000.

Also, under the GSBA 2022, the increase of €8,500 can derive from company contributions or, as a new development, from contributions workers make to the social welfare scheme for an amount equal to or lower than the contributions made by the company to the same social welfare scheme.

Along the same lines as the amendments to the quantitative limit of tax reduction on the personal income tax base, the financial limit of the maximum annual contributions to social welfare schemes has also decreased.

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