A close-up, shallow depth-of-field photograph of a person's hands typing on a computer keyboard. The background is heavily blurred, showing what appears to be a desk with papers and a computer monitor. The lighting is soft and slightly desaturated, giving the image a professional and focused feel. A semi-transparent dark blue rectangular box is overlaid on the right side of the image, containing the text "Incentives and financing" in a white, sans-serif font.

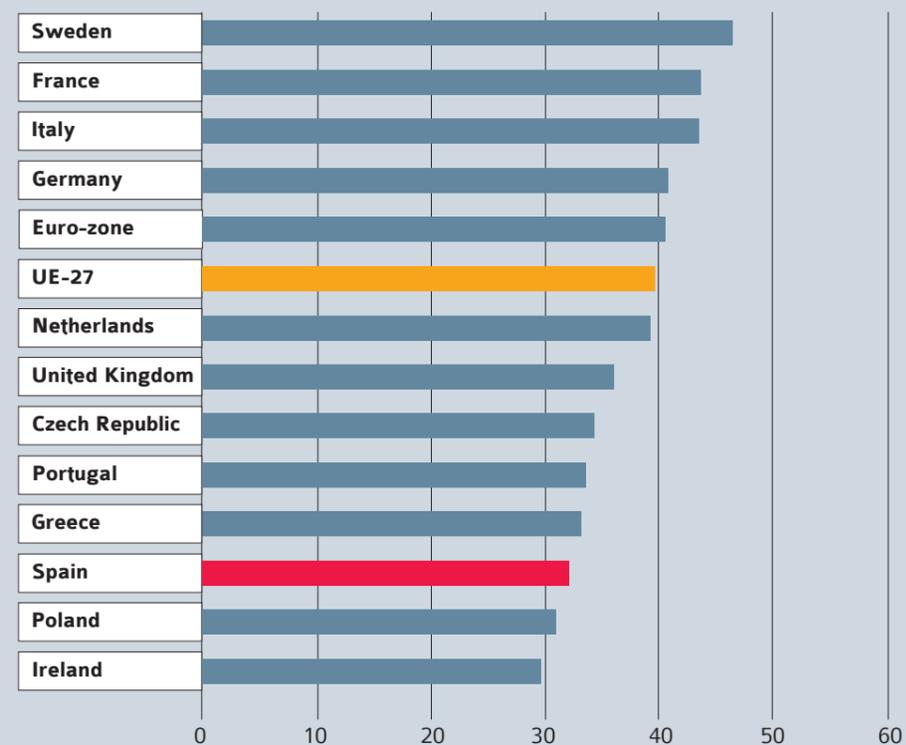
Incentives and financing

# General Fiscal Regime

The Spanish fiscal system is modern and competitive. The fiscal pressure in Spain (measured as the percentage of taxes and national insurance in the GDP) is approximately four points below that of the countries around it as it can be seen in the graphic below. It has to be outlined that the Canary Islands are below the Spanish average due to its specific Fiscal and Economic Regimen, which includes exemptions and reductions up to 4% of the corporate Tax if its approved in the Canary Islands Special Zone (ZEC).

## Fiscal pressure in Europe, 2009 (Taxes / Percentage of GDP)

Source: Eurostat 2011



The main directly applicable taxes in Spain are:

- Corporate Tax (IS)
- Individual Income Tax (IRPF)
- Tax on Incomes of Non-Residents (IRNR)

## Corporate and Personal Income Tax

In Spain the tax system differences when the incomes are gained by an individual, personal income tax (IRPF), or a company or legal entity, corporate tax (IS). Another difference is between resident and non-resident, when it will apply the Non-Resident Income Tax. It is considered as fiscal resident in Spain, if stays more than 183 days in the natural year within the country, or when the base or core of its economical activities are in Spain.

For more detailed information look at: [www.investinspain.org](http://www.investinspain.org)

# Economic and Fiscal Regime of the Canary Islands (REF):

## Investment incentives

### Historical Background

#### Past, present and future of the REF: a special and stable regime

**From what time is it possible to speak of a Fiscal and Economic Regime in the Canary Islands?**

From the **15th Century** to the present time, the Canary Islands have enjoyed a fiscal and commercial peculiarity caused by **their situation as islands and their geographical distance**. These historical rights have been manifested in the form of an almost free-trade regime in the framework of a more or less pronounced form of protectionism according to the period.

In the mid-19th Century, this peculiarity became a system of **free ports** which lasted until the Spanish civil war. During the following years, the system has evolved with the introduction of interventionist elements which culminated in **Act 30/1972 on the Fiscal and Economic Regime of the Canary Islands (REF)** in which it was intended to establish a set of measures with the final objective setting the basis to promote the economic and social development of the Islands.

**How has the REF been adapted to the accession of Spain to the European Union?**

The need to make this fiscal peculiarity in the Canary Islands compatible with the community regulations in the matter of competition and the internal market and the changes that the world economic reality has undergone in these last two decades have led to the Canarian fiscal regime, by maintaining its objective of developing the territory, adapting to the new demands of the environment.

**What legislation governs the current REF?**

For this reason, **Act 19/1994 in Modification of the Economic and Fiscal Regime of the Canary Islands**, in which the fiscal measures with direct incidence on the REF are set down, as well as the regulation of the so-called "*Canary Islands Especial Zone (ZEC)*", an instrument of promotion of the economic and social development of the Islands was approved.

**Are the fiscal incentives of the current REF compatible with community regulations?**

The question of the compatibility of the Canarian fiscal regime with the community regulations arises because certain help, whether direct or indirect, granted by the States or with state funds, may falsify or threaten free competition, favouring certain companies or productions.

Any uncertainty in this respect has been dispelled by the **Decision of the European Commission of 16th December 1997**, which **confirms** that the fiscal incentives set out in the REF are "*forms of help which can be considered to be compatible with the common market in accordance with the Treaty of the European Union and the EEC Agreement*".

The Decision considers that the fiscal incentives set out in the REF constitute indirect help to investment and the exploitation of the companies in the Canaries, and justifies their existence provided that it is subject to limits set down by the community regulations themselves and the conditions set down in the Decision.

**The Royal Decree Act 13/1996 of 26th January, Act 13/1996 of 30th December, Royal Decree Act 7/1998 of 19th June and Royal Decree Act 2/2000 of 6th July (Approval of the Canary Islands Special Zone), Royal Decree Act 12/2006, of 29th December, by means of which Act 19/1994, of 6th July, in Modification of the Economic and Fiscal Regime of the Canary Islands is modified, and Royal Decree Act 2/2000, of 23rd June**, have introduced all the appropriate modifications which adapt the fiscal incentives of the REF to the provisions set down in the community Decision, achieving the full adaptation to the community regulations.

**Is the continuity of the Canarian fiscal peculiarity guaranteed?**

Definitively, the **recognition of the outlying nature of the Canary Islands** and the need to compensate for the costs involved in being islands and the territorial distance have been successively expressed in the Treaty of Accession of Spain to the European Community (Protocol II), in the POSEICAN programme, in the REGIS II community initiative, in article 299 of the Treaty of Amsterdam, article 349 in the Treaty of Lisboa, and in all the Community Decisions which have been approved since then, which guarantees the **stability of their fiscal peculiarity**, although it is subject to the conditions and controls of the European Commission, the institution responsible for ensuring respect for community law.

# Economic and Fiscal Regime of the Canary Islands (REF)

## What fiscal advantages do the Canary islands offer?

<p><b>The opportunity to pay less in Corporate Tax</b></p>	<ul style="list-style-type: none"> <li>· Fixed tax rate of <b>4%</b> for <b>ZEC Companies</b></li> <li>· A <b>reduction of up to 90%</b> of the net undistributed profits from the Tax Base (<b>RIC</b>)</li> <li>· <b>Deductions for investments in strategic sectors</b> that are more advantageous than those of the rest of Spanish territory</li> <li>· <b>Fiscal bonus of 50%</b> of the profits obtained from the sale of tangible goods produced in the Canary Islands</li> </ul>
<p><b>Multiple exemptions in INDIRECT TAXATION</b></p>	<ul style="list-style-type: none"> <li>· For the incorporation of the company</li> <li>· For capital increase</li> <li>· For the acquisition of capital goods</li> </ul>
<p><b>Installation in FREE TRADE AREAS with special economic advantages</b></p>	<ul style="list-style-type: none"> <li>· Economic advantages from the practice of export and import and from the active perfecting of goods</li> </ul>

The mentioned fiscal incentives will be explained as stated below:

## The Canary Islands Special Zone (ZEC)

The Canary Islands Special Zone (ZEC) is an economic instrument created with the purpose of promoting the economic and social development of the Islands and the diversification of their productive structure.

The actual ZEC regimen period will expire on 31st December 2019, and can be extended with the prior authorisation of the European Commission. Companies may register up to 31st December 2013.

The requirements which must be fulfilled by the companies to gain access to the ZEC are the following:

1. It must be a newly-created entity with its registered address and place of effective management in the geographical ambit of the ZEC.
2. At least one member of the administration must reside in the Canary Islands.
3. It must make a minimum investment of 100,000 euros (in Gran Canaria and Tenerife) or 50,000 euros (in the rest of the islands) in fixed assets related with the activity within the first two years, following registration in the ROEZEC (Official Registry of ZEC Entities).
4. It is necessary to create, at least, five jobs (in Gran Canaria and Tenerife) or three (on the other islands) during the first six months following registration in the ROEZEC and this average must be maintained during the time that the benefits are enjoyed.
5. It is necessary to conduct activities that are permitted in the ZEC.
6. It is necessary to present a descriptive Report of the economic activities to be carried on, which justifies their solvency, viability, competitiveness and its contribution to the economic and social development of the Canary Islands.

These entities will have the following advantages:

- ZEC entities are subject to Corporate Tax in force in Spain but at a **reduced rate of 4% applicable** (compared to 25% which is the European average).
- They are exempt from withholding of dividends from ZEC subsidiaries to their parent companies in other country in the European Union thanks to the Parent-Subsidiary directive and to other countries with which Spain has signed an agreement so as to avoid double taxation (over fifty countries).
- Exemption from Capital transfer Tax and Stamp Duty.
- Exemption from the Canarian Indirect General Tax (IGIC) (equivalent to IVA/VAT) for the provision of goods and services between ZEC entities, and on imports.

The ZEC covers all the territory of the Canary Islands with certain peculiarities:

- In the case of companies whose object is the provision of services, they may be established anywhere in the territory.

# Economic and Fiscal Regime of the Canary Islands (REF)

- When it is a matter of companies whose object is the production, transformation, manipulation and/or marketing of goods, their area of establishment will be restricted to the limited areas designated to this purpose.

## The Reserve for Investments in the Canary Islands (RIC)

### ¿What is the Reserve for Investments in the Canary Islands?

#### Definition of the Reserve for Investments in the Canary Islands.

The Reserve for Investments in the Canary Islands, hereinafter RIC, is instrumented with the objective of stimulating investment activity charged against shareholders' equity, that is to say, self-financing of the investments of the companies which conduct their activity in the Canary Islands.

### Who can make use of the RIC?

#### Ambit of application of the Reserve for Investments in the Canary Islands.

Contribution to the RIC represents fiscal advantages of which, *in relation to the activity carried out in establishments located in the Canary Islands*, the following may make use:

- All companies and other legal entities subject to **Corporation Tax**.
- Those **individuals who are subject to Income Tax**, both in their net profits from business activities as professionals and it is estimated by the method of direct estimation.

Nevertheless, Royal Decree Act 7/1998 sets down the inapplicability of all fiscal incentives to the productive activities which are within the sensitive sectors (naval construction, synthetic fibres, the automobile industry, iron and steel and the coal industry).

### What is understood by a permanent establishment in the Canary Islands?

The **indispensable condition** in order to take advantage of the RIC, is that the company, independently of where it is located, must have a **permanent establishment** in the Canary Islands. By permanent establishment, all *the installations or places of work, in which, in a continual and habitual manner, all or part of the activity is undertaken, with po-*

*wer to make contracts, on behalf of and on account of the non-resident person or body* is understood.

### What are the fiscal advantages of the RIC?

#### Application and calculation of the RIC.

The RIC makes it possible to reduce the taxable base, up to **90% of the Undistributed Profits (BND)**, in Corporation Tax for the amount that **the establishments situated in the Canary Islands** devote from their profits to the contribution to the Reserve for Investments in the Canary Islands.

### What is understood as Undistributed Profits in the calculation of the limit of the fiscal advantage?

Undistributed profits are understood to mean *those devoted to increasing the reserves of the company*. The calculation of this variable is the result of deducting from the Gross Accounting Profit for the fiscal year in which the RIC has been contributed to, the Legal Reserve (RL) and the dividends to be distributed (D).

The RIC can be likewise applied in **individual Income Tax**. In this case, it would involve a deduction in the total tax liability for IRPF for the net profits of operation devoted to the RIC. The calculation is effected by applying the average rate of tax to the contribution to the RIC<sup>1</sup>.

#### PBT= Profit Before Tax

Accounting Profit	· Distribution of Profits
Undistributed profits Base for the RIC calculation	· Legal Reserve · Voluntary Reserve · Reserve for investments in the Canary Islands
Corporation Tax	

<sup>1</sup> In this final case, **the deduction may not be greater than 80% of the total tax liability which corresponds proportionally** to the amount of the net profits of operation from the establishments of the company situated in the Canary Islands.

# Economic and Fiscal Regime of the Canary Islands (REF)

**What requirements are set in order to be able to enjoy the fiscal benefit deriving from the RIC?**

## The requirements of the RIC.

The necessary requirements for the effective practice of the fiscal benefit, both for companies and for the individuals are the following:

### 1. *Materialising the reserve.*

In general, the quantities which are devoted to the RIC have to be materialised in the purchase of fixed assets, new or used, within any of the following investments:

- A. Initial investment
- B. Creation of jobs
- C. Acquisition of corporate assets that do not form part of the initial investment.
- D. Subscription of shares or stockholdings in companies by incorporation or increase of capital and canarian public debt.

**What is the period of time to materialise the RIC?**

### 2. *Maximum period to materialise the reserve.*

The fiscal use of the contribution to the RIC must be within the maximum **period of three years** counted from the date of payment of the tax, corresponding to the financial year in which it has been contributed to.

**Is there any obligation on the part of the company to maintain the goods involved in the RIC?**

### 3. *Minimum period of time of existence of the materialization.*

The minimum period that the goods in which the reserve was materialised must remain in operation in the company depends on the kind of investment chosen:

- Investment in Fixed Assets: **at least five years or during the useful lifetime** of the elements if this is less. For these purposes, the duration corresponding to the maximum period of amortization assigned in the officially approved amortization tables.
- Other Investments: **5 years**

## Type of investment

## Conditions that must be fulfilled in order to obtain the fiscal benefit

### Acquisition of New or Used Fixed Assets

#### *Conditions demanded for new and used Fixed Assets*

- They must be located or received in the Canary Islands
- They must be used in the Canary Islands
- They must be necessary for the conduct of the business activity or they must contribute to the improvement and protection of the environment in the Canary Islands.
- Investments made by tenants in buildings and those devoted to the rehabilitation of a fixed asset

#### *Additional conditions for Used Fixed Assets*

- They may not have benefited previously from the RIC.
- They must represent a *technological improvement* for the company
- Minimum duration of the lease must be five years

### A. Initial investment

- Costs of establishment /incorporation
- Rights of Transfer, Patents, Brands
- Computer Applications
- Audiovisual productions
- Buildings, Premises and Land (included in the legally accepted cases)
- Technical installations, Machinery and Tools
- Other Installations, Tools and Furniture
- Computer Equipment
- Elements of Transport
- Guarantees and Deposits (registration of supplies)
- Other investments

In the case of used goods, this is only applicable for small-sized enterprises (ERD), where it is demanded that the goods acquired have not enjoyed this incentive previously.

# Economic and Fiscal Regime of the Canary Islands (REF)

## B. Creation of employment posts

Related with A and which are to be produced within the space of six months from the coming into operation of the investment.

It will be determined by the average increase in the staff of the company arising in the said period with regard to the average staff for the previous twelve months.

It must be maintained for five years (ERD 3 years)

The RIC is materialised for the first two years of the average costs of gross salaries and social contributions which correspond to the said increase.

It will not be possible to reduce the existing average number of staff existing in the financial year previous to the subscription during the four following years.

## C. Acquisition of capital assets

In acquisition of elements of material or immaterial fixed assets which are not part of the initial investment, which contribute to the improvement and protection of the environment and to R+D costs (e.g.: projects with universities, public research organisations or centres of innovation and technology)

In vehicles for passenger transport by sea or road: public services of general interest.

In materialization of land: leases of apartments protected by the promoter, conduct of industrial activities and commercial areas in declining tourist zones.

## D. Subscription of shares or stockholdings in companies through incorporation or increase of capital and canarian public debt.

**A) Indirect materialisation: subscription of shares or participation in societies.** Only companies that carry on their activity in the Islands and fulfil the following **requirements**:

1. Indirect investments in elements of groups A and B
2. Period of materialization of the company is the same as that which contributed to the RIC
3. The RIC will consider not the capital subscribed but that capital paid up to be a RIC materialization (including the issue premium)
4. The investments made by the company in which stock is held will not give rise to the application of any other fiscal incentive, except Article 25 Capital Transfer Tax and Stamp Duty

## D. Subscription of shares or stockholdings in companies through incorporation or increase of capital and canarian public debt.

5. A reciprocal system of information is established between both companies

6. In the subscription of shares or stockholdings in ZEC entities :

The amount of the issue or capital increase must be greater than 750,000

At least 10% of the issue or increase will not be suitable for a RIC Materialisation

The subscribing body may not transfer or cede the use of the affected assets existing in the previous financial year nor in the following four, except for certain exceptions

7. In shares or stockholdings of companies and venture capital funds and in investment funds, provided that:

These companies invest a quantity equivalent in shares or stockholdings representative of the capital of the companies referred to in the foregoing points of this group D.

Obligations of reciprocal communication are set down

The investments made by the company in which there is a holding by the venture capital body or by the investment fund will be incompatible with any other incentive except article 25 Capital Transfer Tax and Stamp Duty.

**A) Subscriptions of canarian public debt and cases with similar aims.**

1. Securities of the Public Debt of the Canarian Autonomous Community, from the Local Corporations of the Canary Islands, from its public companies or its autonomous organisations with the limit of 50% of the amount paid each financial year.
2. Securities issued by public organisations for the construction or exploitation of infrastructures or equipment of public interest. Limit 50%
3. Securities issued by entities that come from construction or exploitation of infrastructures or equipment of public interest for the Canarian Public Administrations once the administrative concession is obtained. Limit 50%.

# Economic and Fiscal Regime of the Canary Islands (REF)

**Can the RIC be materialised in a used asset for which other fiscal benefits have been received?**

Nevertheless, it is necessary to make the following qualifications about the attached table:

- a) In the case of **used fixed assets**, they may not have benefited previously from the regime set down in this article, and it must involve a technological improvement for the company
- b) Technological improvement is understood to mean those investments which have one of the two following effects:
  - It reduces the cost of unit production of the goods or service
  - It improves the quality of the goods or service
- c) Regarding the option of subscribing shares, the current regulations **do not demand that the company in which there is a holding should have its registered address in the Canary Islands**. Likewise, it only obliges that it carries on its activity on Canarian territory. This relaxation of the demands offers new possibilities for making use of the RIC and a range of formulas of funding of investments in the Canary Islands.

**How are the “technological improvements” to be evaluated?**

**Is there any specific rule to account for the RIC?**

#### **4. Accounting of the reserve.**

The RIC must feature on the balance sheet with an absolute separation and an appropriate title. It is not possible to make use of the account where is deposited the RIC up to the end of the obligatory period of maintenance of the investment.

**Must the materialization of the RIC be carried out by means of a cash payment?**

#### **5. Form of payment of the materialization of the RIC.**

The taxpayer may use any form of payment it wishes to materialise the RIC: in cash, outside financing or “leasing”, provided that in this final case there is no doubt about the exercise of the purchase option.

**Are the fiscal benefits derived from the RIC compatible with other fiscal incentives?**

#### **Compatibility of the RIC with other fiscal instruments.**

The RIC is **compatible** with the fiscal benefits deriving from specific incentives of the Economic and Fiscal Regime of the Canary Islands and those of the General Regime of Corporation Tax:

- **Tax Allowance for Production of Tangible Goods**

- **The freedom of amortization for investments which generate employment** (R.D. Act 7/1994 of 20th June).
- **Exemptions in Capital Transfer Tax and Stamp Duty for asset purchases of goods**
- **The Special Regime of Deduction for investments in the Canary Islands**, although in the physical sense, that is to say, the taxpayer may not simultaneously make use of both fiscal benefits on the same capital goods. This limitation disappears if the fractioning of the goods is possible.

**What happens if the criteria of materialization of the RIC are not obeyed?**

#### **Penalization for breach of requirements.**

The taxpayer will be penalised for infringing the requirements demanded by the regulations for the use of the fiscal benefit. The penalization will consist of integrating in the taxable base for the financial year in which the said breach occurs, the strict amount of the sum in breach. On the amount of the breached derived sum, the corresponding delayed interest will be paid. Furthermore, if it constitutes a tax breach, the corresponding tax sanctions will be imposed.

## Deduction for investments in the Canary Islands

**What similarity is there with the deduction of the Company Tax in Spanish territory?**

#### **The special regime of Deduction for investments in the Canary Islands.**

The Deduction for Investments in the Canary Islands is a fiscal incentive, **equivalent in its operation with that on Spanish territory**, but with considerable advantages with respect to the intensity of the fiscal benefit.

**Who may take advantage of the deductions for investments in the Canary Islands?**

This special regime of deduction for investments in the Canary Islands is applicable to the following persons and entities:

- All companies and other legal entities **subject to Corporation Tax for the investments they make which remain in the Canary Islands**, provided that:

# Economic and Fiscal Regime of the Canary Islands (REF)

- They have their registered address in the Canary Islands
- If they do not, they must at least have a permanent establishment in the Islands.
- The **individuals** that carry on **business and professional activities in the Canary Islands**, provided that they fulfil the conditions imposed by the regulations of Income Tax for the application of the incentives to the investment set down in Corporation Tax.

## How are the deductions calculated for investments in the Canary Islands?

### Application of the special regime of Deductions for Investments in the Canary Islands.

The deduction for investments in the Canary Islands constitutes a fiscal stimulation measure which operates, just as occurs in the general regime set down by the Company Tax Act of 1995, as **one more reduction of the total tax liability** after the application of the deductions for double taxation and possible allowances. In a generic manner, the amount of the deduction is calculated in each case by applying the percentage of deduction stipulated legally for each modality of investment over the total amount of the investments made.

## Why does this incentive make investments in the Canary Islands more attractive than those on the rest of the Mainland Spain?

The Canarian regime presents **considerable advantage** compared with the general:

- A **greater intensity of the fiscal benefit**, thanks to a higher percentage of deduction applicable and a wider limit on the total amount of the sum that is finally deductible.
- The Canarian special regime has a **character of permanence**, which the general regime lost with the approval of Act 43/1995, the Companies Act, given that since then it is the General Budget Act of the State that determines its existence every year.

The greater intensity of the fiscal benefit of the special Canarian regime of deduction for investments is expressed in the following characteristics which differentiate it from the general regime:

## What are the rates of deduction applicable to investments in the Canary Islands?

1. The **rates applicable** on the investments made will be **greater by 80%** than those of the general regime, with a **minimum differential of twenty percentage points**.
2. With regard to the limit applicable, it will be 80 per cent greater than that set down in the general regime, with a minimum differential of 35 percentage points.
3. The deduction for investment in the Canary Islands may be made likewise in elements of **used fixed assets**, provided that: they have not previously enjoyed the deduction for investments of the general regime and that they are a technological improvement for the company.

There is an added advantage: the deduction for investments in the Canary Islands can be used by those elements of used fixed assets which would previously have used the RIC.

The deductions for investments under Act 20/1991, of 7th June, in modification of the fiscal aspects of the Economic and Fiscal Regime of the Canaries, coming from different modalities or taxation periods of chapter IV of title VI of the Act of the Company Tax will be applied with the particularities set down in Act 20/1991, respecting the limit of 70 per cent on the total tax liability, reduced by the deductions so as to prevent double taxation and the allowances (key [582]).

Notwithstanding the foregoing, the said joint limit of 70 per cent will be raised to 90 per cent when the amount of the deduction for activities of scientific research and technological innovation set down in article 35 of the Company Tax Act, together with the amount of the deduction to foment technologies of information and communication from Article 36 of the above-mentioned Act, and which correspond to costs and investments made in the same taxation period, exceeds 10 per cent of the total tax liability, reduced by the deductions to avoid internal and international double taxation and the allowances.

On the other hand, in accordance with the provisions of the fourth transitory provision of Act 19/1994, in the Canary Islands, the deduction for investments in elements of the material fixed assets continues to be applied, with the deduction corresponding to 2009 having an independent limit of 50 per cent of the above-mentioned quota (key [582]).

On the following page, the types of deduction and the limits applicable in this regime are summarised.

# Economic and Fiscal Regime of the Canary Islands (REF)

MODALITIES OF DEDUCTION		DEDUCTION	LIMIT <sup>(2)</sup>
Investments in elements of tangible fixed assets, excluding land, affected by the development of the economic exploitation of the entity <sup>(1)</sup>		25 per cent	50 per cent
Investments in goods from the tangible assets devoted to the protection of the environment		24/25 per cent	70/90 per cent
Creation of employment for handicapped workers		6,000 euros a person/ year of increase	
Gtos. Research and development and technological innovation	Research and development	45/75, 6/28 per cent + 37 per cent (additional)	
	Technological Innovation	28 per cent	
Technological investments of information and communication		26 per cent	
Deductions in measures of support for the transport sector		24 per cent	
Creation of branches or permanent establishments abroad, as well as the purchase of stockholdings of foreign companies or the constitution of subsidiaries directly related with the export activity of goods or services or the contracting of tourist services in Spain, provided that the stockholding is, at least, of 25 per cent of the corporate capital of the subordinate		26 per cent	
Costs of advertising and propaganda of pluri-annual projection for product launches, opening and prospecting of markets abroad and attending fairs, exhibitions and other analogous manifestations, including in this case those held in Spain with an international character.l		26 per cent	
Goods of cultural interest		30 per cent	
Investments in cinema productions	Producer of the film	38 per cent	
	Financial co-producer <sup>(3)</sup>	25 per cent	
Investments in book publishing		24 per cent	
Costs of vocational training		22/24 per cent	
Business contributions to employment-related pension plans, MPS, to plans of National Insurance or for contributions to protected properties		24 per cent	
Investments and costs in kindergartens for workers' children		24 per cent	

**(1)** In accordance with the provisions of the fourth transitory provision of Act 19/1994, in the Canary Islands, the deduction for investments in elements of the tangible fixed assets continues to be applied. The used fixed assets which give a right to a deduction must belong to one of the following categories:

- Machinery, installations and tools.
- Equipment for information processing.
- Elements of internal and external transport, excluding vehicles that are susceptible to personal use by persons linked directly or indirectly to the company.

Likewise, the acquisition of the of the used fixed asset element must involve a clear technological improvement for the company, and this circumstance must be accredited, in the case of verification or research into the tax situation of the taxpayer, by means of the justification that the element which is the object of the deduction is going to produce or has produced any of the following effects:

- Reduction of the unit cost of production of the goods or service.
- Improvement of the quality of the goods or service.

Finally, the taxpayer must keep at the disposal of the Tax Administration the certification issued by the transferor in which it is recorded that the element that is the object of the transfer has not previously enjoyed the deduction for investments or the regime of the Precautionary Fund for Investments.

**(2)** The maximum limit of deduction on the total tax liability reduced by the deductions to avoid double taxation and the allowances is independent of that which is allowed for the investments under the general regime of the Tax.

**(3)** The financial co-producer may only make use of this deduction when he participates in a Spanish production of a full-length film and will have as a limit, apart from the joint limit of 70 per cent (or 90 per cent, if applicable), 5 per cent of the income for the period deriving from the said investments.

# Economic and Fiscal Regime of the Canary Islands (REF)

**Can a company benefit simultaneously from other fiscal advantages?**

**Compatibilities of the especial regime of deduction for investments in the Canary Islands with other fiscal incentives.**

The entities which are in a position to benefit from the special regime of deduction for investments in the Canary Islands may simultaneously enjoy the following fiscal advantages:

- **Exemption for purchase of goods of the Capital Transfer Tax and Stamp Duty**
- **Deduction for Investments made in the rest of Spain** (Investments under the General Regime)
- **Allowance for Production of Tangible Goods**
- **Reserve for Investments in the Canary Islands**, although in the physical sense as described above.

The deduction for investments in the Canary Islands may be applied to the purchase of **used fixed assets** provided that:

1. they have not previously enjoyed the deduction elsewhere on Spanish territory
2. they amount to a clear technological improvement for the company

## Deduction for Production of Tangible Goods in the Canary Islands

**What is the deduction for production of tangible goods in the Canary Islands?**

**Definition of the deduction for production of tangible goods in the Canary Islands.**

This is a fiscal incentive which reduces the total tax liability of the Company Tax, or Income Tax (IRPF) if applicable. The objective of this fiscal instrument is to foment productive activities in the Islands.

**Who can benefit from the allowance for the production of tangible goods?**

**Ambit of application of the allowance for production of tangible goods in the Canary Islands.**

All taxpayers of Corporation Tax and all taxpayers of Income Tax who determine their profits by the **regime of direct evaluation** can benefit from the allowance, provided that they satisfy the following conditions:

**What fiscal benefit does the allowance for production give?**

- They must have a permanent establishment or branch in the Canary Islands, independently of the place where they are domiciled.
- They must devote themselves *directly* to the *production of tangible goods in the Islands* which are those proper to agricultural activities, livestock, industrial and fishing, provided that in this case, the deep sea fishing:
  - Is carried out with Spanish ships, and
  - The fish are disembarked, handled or transformed in the Canary Islands.

Nevertheless, the R.D. Act 7/1998, determines that the productive activities included in the **sectors considered as sensitive** by the European Union, naval construction, synthetic fibres, the automobile industry, iron and steel and the coal industry, cannot take advantage of the fiscal benefits of the allowance for production.

**Application of the Allowance for Production of Tangible goods.**

What fiscal benefit does the allowance for production give?

This incentive is an allowance of **50% of the total tax liability** which **proportionally** corresponds to the *profits deriving from the sale of tangible goods produced in the Canary Islands with the above-mentioned requirement*.

**Allowance = 50% x 30% x Profits from the Sale of Tangible goods produced in the Canary Islands.**

The same allowance is applicable to the Income Tax taxpayers who carry on the same activities and with **the same requirements demanded** from the taxpayers of company tax. This allowance is applied to the total tax liability, which corresponds proportionally to the profits deriving from the above-mentioned productive activities.

**Allowance = 50% x Average Rate x Profits from the Sale of Tangible goods produced in the Canary Islands**

**Can a company benefit at the same time from the RIC and from the rest of the fiscal advantages of the REF?**

**Compatibility of the Allowance for Production with other fiscal instruments.**

This instrument is **compatible with other fiscal incentives**. In particular, any company that benefits from the Allowance for Production of

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## Example of application and calculation of the Allowance

Profits before tax	100
X Rate of company tax	30%
= Total tax liability	30
- Allowance of (50%)	(15)
<b>TOTAL NET TAX PAYABLE</b>	<b>15</b>
<b>Net profit after tax</b>	<b>85</b>

Tangible goods can simultaneously obtain the corresponding fiscal advantages deriving from contributions to the Reserve for Investments in the Canary Islands, the exemptions from the Property Transfer Tax and Stamp Duty set down in the REF and the exemption for reinvestment for SMEs.

## Fiscal advantages of the Canary Islands General Indirect Tax.

### 1. Canary Islands General Indirect Tax

#### Definition of the General Indirect Canarian Tax (IGIC)

Canary Islands General Indirect Tax, hereinafter IGIC, is an indirect tax, of which the objective is to charge final consumption, which replaces the European IVA/VAT in taxation of consumption. Its regulation and mechanics of application offers a great similarity with IVA, without prejudice to the specificities and peculiarities of the regime of the IGIC, which respect the maintenance of the exemption of consumption explicitly regulated in the Statute of Autonomy of the Canary Islands.

#### What is IGIC?

#### Where is IGIC applicable?

The **specific territorial scope** of the IGIC is the territory of the Canary Islands, territorial water up to a limit of twelve nautical miles and the corresponding airspace.

#### What advantages does it have with regard to IVA?

#### The advantage of IGIC compared with IVA.

The regulation of IGIC offers the following additional advantages in comparison with Value Added Tax:

- **Lower rate of taxation. The general rate of IGIC is 7%.**
- **Application of a zero rate on certain products and services.**



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- **Exemption for acquisition of capital goods**, provided that a company with registered address in the Canary Islands is set up, or at least with a permanent establishment in the Islands.
- **Exemption for delivery of goods and provision of services of the Canary Islands Special Zone (ZEC)**. These operations carried out by the ZEC entities with other ZEC entities are exempt from the tax, as well as imports of goods made by these entities, generating, however, the right to the deduction and return of the contributions paid.

## 2. Exemption from capital transfer tax and stamp duty (ITP and AJD)

The incentives to investment set out in article 25 of Act 19/1994, consist of fiscal advantages in indirect taxation. To be precise, the **exemption is regulated**, under certain conditions, in the purchases of capital goods **ITP and AJD**.

### Ambit of application of the exemption.

**Companies with registered address in the Canary Islands** or alternatively which **have a permanent establishment in the Islands** can make use of the exemption in ITP and AJD.

The exemption covers the **constitution, capital increase and acquisition of goods or rights** which are situated, can be used or must be fulfilled on Canarian territory which are devoted to the extension, modernization or transfer of facilities.

In the modality of corporate operations, only the incorporation or capital increase will be exempt in the part which is devoted to the investments set out in Article 25 of Act 19/1994 of the REF, and under no circumstances will the operations subject to the modality of Stamp Duty be exempt.

### Is there any deadline in order to enjoy this exemption?

Nevertheless, in order to be able to enjoy this exemption **a period of no more than three years must have passed since the fulfilment of the conditions of fact** indicated above. Likewise, a minimum period of five years is set before the transfer of the fiscal domicile or permanent establishment of the acquiring entity can be transferred outside Canarian territory. In case of breach of the said period, the company must pay the tax which would have been payable and its interest for late payment.

## Special Register of Ships and Shipping Companies.

### The Special Register of Ships and Shipping Companies (REB)

The purpose of this register is to improve the competitiveness of the shipping companies and that of the Canarian ports by a series of measures consisting of different exemptions and fiscal allowances that can be taken advantage of by both registered Companies and ships.

### Conditions to register in the Special Register of Ships and Shipping Companies.

The following may register in this register:

- Any **merchant ship** with mercantile aims which carries on either **coastal trading or external or extra-national trading**. The ships, for which registration is requested in the Special Register must in any case satisfy certain requirements regarding minimum size, nationality of the Captain and of the crew, and other general matters.
- All the **Shipping Companies** which have their **effective centre of control** of the operation in the Region of the Canary Islands, on Spanish national territory or abroad, provided that in the last two cases there must be an **establishment or permanent legal representative** in the Region, accredited by means of public deed.

### What do the fiscal incentives for investment in the Canary Islands consist of?

### Who can make use of it?

### What operations does the exemption cover?

### What is the purpose of the Special Register of Ships and Shipping Companies?

### Who can register in the Special Register?

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**Is it possible to have access to the fiscal benefits of the REB without being registered in this register?**

**What are the fiscal advantages from registration?**

## **Fiscal benefits of the registration in the Ship and Shipping Register.**

The beneficiaries of the fiscal and economic advantages of registration in the Special Register of Ships and shipping companies extends to the crewmembers and companies of the ships **assigned to the scheduled services between** the Islands, and between these and the rest of national territory, *as they cannot register in the said Special Register.*

The fiscal advantages of the registration in the REB are the following:

### **• Income Tax.**

The crewmembers of the ships registered subject to IRPF, both by personal and real obligation, can consider **50% of the integral profits of their personal work** as paid due to their sailing on ships that are registered as an income exempt from taxpaying for this concept.

### **• Tax on Goods Transfers and Stamp Duty.**

All the acts and contracts made on the ships registered in the Register, or alternatively, attached to the scheduled services mentioned above, **are exempt from paying** this tax.

### **• Corporate Tax.**

The Ships and Shipping Companies may benefit from an allowance of **90% of the portion of the tax liability of the tax** which, after making the deductions for double taxation, correspond to the taxable base from the operation carried on by the shipping companies of the registered ships, or if applicable, relating to the scheduled services to which they are attached.

### **• Contributions to National Insurance.**

The crewmembers of the ships will enjoy **an allowance of 90% on the business contribution to** National Insurance.