



# MELILLA

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# 1. Introduction

The City of Melilla is a territory belonging to the Kingdom of Spain since 1497. Located on the North African coast, on the shores of the Mediterranean Sea and off the coast of Almería, it has always been an important commercial enclave.

It has a significant historical and monumental heritage, ranking as the second Spanish modernist city, immediately after Barcelona, thanks to the legacy of the architect Enrique Nieto, a disciple of Gaudí.

Melilla has an area of 12.3 km<sup>2</sup>, a Mediterranean climate with an average annual temperature of 20°C and a population of approximately 90,000 inhabitants with an average age of 35 years. It is an example of coexistence, where Christians, Muslims, Jews and Hindus currently reside.

It has excellent air connections with the Peninsula, with daily frequencies with cities such as Madrid, Malaga, Seville, Granada and Almería. Likewise, there are maritime links with various Spanish ports.

The singularity of the Autonomous City of Melilla is recognized in the Spanish Constitution of 1978 and in its Statute of Autonomy of 1995.

In this context, Melilla has a differentiated tax regime from the rest of the national territory, whose origins date from the entry into force of the Law of Bases of the Economic and Financial Regime, of December 22, 1955, even before the integration of Spain to the European Union.

The foregoing provides evident legal certainty to any investor who decides to locate their business activity in the City and its treatment is recognized by the different bodies of the European Union.

In a context of globalization, Melilla's strategic plan includes the adoption of measures aimed at locating business projects related to the world of technology and telecommunications in the City. To do this, it has two submarine fiber optic cables and FTTH broadband, which ensure adequate availability of resources for any entity that wishes to develop a business project from the Autonomous City.

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In short, Melilla is presented as an ideal place to locate any business project that is related to the provision of a service that can be carried out remotely, highlighting, among others, any that could be related to cyber security activities , big data, artificial intelligence, call center or with the online gaming industry.

Melilla can boast of having one of the best tax regimes in Europe based on two pillars: legal certainty and profitability for its investors.

Finally, in addition to the tax incentives that are developed below, there are different types of aid for investment and job creation. All the necessary information in this regard can be consulted on the website of Promoción Melilla, S.A., an entity constituted by the Autonomous City of Melilla to promote and promote the socioeconomic development of Melilla ([www.promesa.net](http://www.promesa.net)).



## 2. Corporate Tax

In order to encourage the economic evolution of Melilla, certain Fiscal Benefits are regulated in Corporate Tax for entities that decide to carry out their activity from the City.

### What does the incentive consist of?

Companies established in the Autonomous City of Melilla are subject to Spanish Corporation Tax according to the general regulations, although they may apply a 50% discount on the full amount of the tax.

### Where is it regulated?

Article 33 of Law 27/2014, of November 27, on Corporation Tax regulates the requirements for application of the bonus in the full amount for income obtained in Melilla.

### Who can benefit from the bonus?

All those entities that have their tax domicile in Melilla can benefit from this incentive, as well as all entities (national or foreign) that, not being domiciled in the City, operate in it through a permanent establishment. In short, it is a tax benefit that makes its correct application conditional on the development of an economic activity in the City.

### What type of income can be subsidized?

Those income materially obtained in Melilla by entities that operate effectively in the Melilla territory.

In addition, in the event of operating in Melilla for more than 3 years, the bonus will be applicable to all income obtained abroad (up to the limit of those obtained in Melilla) if at least half of the entity's assets or of the permanent establishment are located in Melilla.



### EXAMPLE

The Board of Directors of an entity with tax domicile in the Peninsula wants to tackle a new business project for the provision of online services to third parties. To assess where to locate the new entity, he asks his advisers to carry out an analysis of the profitability that the project would obtain by differentiating between a location on the peninsular territory and Melilla. The results of the analysis are presented below:

	SPAIN	MELILLA
INCOME	1.200.000,00	1.200.000,00
EXPENSES	1.028,454,00	1.028.454,00
TAXABLE BASE	171.546,00	171.546,00
FULL FEE	42.886,50	42.886,50
LIQUID FEE	42.886,50	21.443,25
PROFIT AFTER IS	128.659,50	150.102,75
PROFITABILITY AFTER IS	10,72%	12,51%

### What requirements must be met in order to apply this incentive?

The regulations require the entity to complete a complete business cycle. For this, it is important to take into account three requirements:

1. There must be an adequate substance that allows accrediting the development of an economic activity in the City. For this, the entity must have the existence of sufficient material and personal resources. In this context, it is recommended to have facilities to carry out the activity and worker/s hired and registered with social security.
2. The activity must consist of the delivery of goods or provision of services to third parties. Therefore, it is not possible to carry out an activity exclusively for the parent company or other establishments of it.
3. Generation of income, and therefore, not only incur costs.

### What other income does benefit from this discount?

If an entity or group has part of its activity in Melilla, even if it does not determine by itself a complete commercial cycle in the terms previously exposed, however, the application of the subsidized income is allowed as long as there are personal means hired in said territory; Of course, the bonus in these cases is limited to an amount of 400,000 euros of income.

### In the event that a Group of companies with a presence in the Peninsula decided to set up an entity in Melilla, could it be included in the Fiscal Consolidation perimeter?

Yes. As long as the requirements established in the special regime for group of entities are met, the Melilla company would become part of the perimeter of the Fiscal Consolidation Group. The application of the bonus would only require that the income from Melilla be positive since, if it is negative, no bonus is applicable.

### What happens if the entity located in Melilla distributes dividends to entities resident in the Peninsula?

The 95% of the dividends distributed will be exempt from taxation of the Corporation Tax of the receiving entity as long as the following requirements are met, among others:

- That the percentage of direct or indirect participation in the capital or in the own funds of the operating entity is at least 5% or that the acquisition value of the participation is greater than 20 million euros.
- That said participation is held uninterruptedly during the year prior to the day on which the benefit to be distributed or subsequent maintenance is due for the time necessary to complete it.

The remaining 5% will be subject to taxation at the headquarters of the receiving entity, even when both are part of a Tax Consolidation Group.



### 3. Personal Income Tax and Social Security Contributions

The City of Melilla not only has tax incentives for companies that operate in its territory, but there are also certain incentives for individuals in order to attract talent to the City.

#### What does the incentive consist of?

A deduction of 60% of the sums of the full state and regional contributions can be applied.

### EXAMPLE

A single worker with two children, has obtained a work income of 90,000 euros, being his habitual residence in: a) Melilla; b) Madrid; c) Barcelona; d) Seville.

Next, we see the amount to pay in each of the situations:

MELILLA	MADRID	BARCELONA	SEVILLE
11.391	27.940	28.439	28.815

### Where is it regulated?

In article 68.4 of Law 35/2006, of November 28, on Personal Income Tax.

### Who can apply it?

Any tax resident in Spain, either in Melilla or anywhere else in our national territory.

### What type of income can the deduction be applied?

We must distinguish between:

- Taxpayers residing in Melilla: may apply the deduction to income obtained in the City and may also extend the scope of application of this incentive to income obtained outside of Melilla (up to the limit of that obtained in Melilla) if the period of residence is more than 3 years and, at least, a third part of their net worth is located in the Autonomous City.
- Taxpayers residing in the rest of the national territory: the deduction will be applicable exclusively to computed income that would have been obtained in Melilla, such as income from economic activities, income or capital gains from real estate, as well as certain income from movable capital, actually made, located or generated in Melilla.



### If an entity from Melilla distributes a dividend to its partners who are individuals residing in the Peninsula, can they apply the 60% deduction of income?

Yes, as long as the entity from Melilla is in one of the following cases:

- Has its domicile and exclusive corporate purpose in Melilla (so that it only carries out its economic activity in the Autonomous City);
- Effectively carry out its economic activity in Melilla for a period of not less than 3 years and also obtain income for its economic activity outside of said city, as long as at least half of the entity's assets are located in Melilla.

### Regarding social contributions, are there any incentives?

Yes. There is the possibility of applying a 50% discount on your contributions to Social Security contributions for common contingencies, as well as for the concepts of joint collection of unemployment, professional training and Salary Guarantee Fund, with respect to workers who provide services in work centers located in Melilla, as long as the employer's activity is related to the sectors of agriculture, fishing and aquaculture, industry, (except energy and water), commerce, tourism, hospitality and other services, ( except air transport), construction of buildings, financial and insurance activities and real estate activities.

Workers included in the Special Regime for Self-Employed or Self-Employed Workers dedicated to the activities of the sectors described in the previous paragraph, who reside and carry out their activity in Melilla, are entitled to a 50% discount on their contributions to the quotas Social Security for common contingencies.

In addition, this bonus is compatible with those generally established in employment promotion programs.

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### EXAMPLE

A company located in the Peninsula is considering carrying out a new project to provide services to third parties and is thinking of Melilla as a possible location. The salary cost structure is very important for the correct profitability of the project, so you want to compare how much savings you would obtain in the Autonomous City compared to any other place in the peninsular territory.

		España (General regime)	Melilla (Special regime)	Variance
Income	Expense			
640 Wages and salaries	720.000,00	720.000,00	698.400,00	21.600,00
642 Social Security	240.000,00	240.000,00	116.400,00	123.600,00
<b>TOTAL</b>	<b>960.000,00</b>	<b>960.000,00</b>	<b>814.800,00</b>	<b>145.200,00</b>

As can be seen, it has been assumed that the Company invests 3% of the expense incurred in wages and salaries and social security by the company in professional training. In this sense, the expenses in personnel training would be subsidized by the Autonomous City of Melilla.

With all of the above, the difference in human resources costs between locating the same project in Melilla compared to any other place in the national territory would be 145,000 euros per year.



## 4. Wealth Tax and Inheritance and Gift Tax

### Is there any tax benefit in terms of Wealth Tax?

Yes. Currently, a discount of 75% of the proportional part of the quota that corresponds to the assets and rights of economic content located or that can be exercised in the Autonomous City of Melilla is applicable.

### Regarding Inheritance and Gift Tax, can the heirs and/or donees apply some kind of incentive?

In mortis causa acquisitions, as well as the amounts received by life insurance beneficiaries, which accumulate to the rest of the assets and rights that make up the hereditary portion of the beneficiary, enjoy a 50% discount on the quota, as long as the deceased would have resided in the Autonomous City of Melilla on the accrual date and for a longer period of time in the last 5 years counted from date to date.

Regarding inter vivos acquisitions, the following bonuses are equally applicable:

- 50% of the part of the quota that corresponds proportionally to the properties located in Melilla.
- 50% of the corresponding fee in the case of other acquisitions inter vivos, when the acquirer (grantee) has his habitual residence in Melilla.



## 5. Non-Resident Income Tax

**In general, the dividends that a Spanish entity distributes to its non-resident partners will be understood to be income from a Spanish source and will be subject to 19% taxation.**

However, dividends distributed by an entity from Melilla to the parent company located in a Member State of the European Union are considered exempt in Spain as long as a series of requirements are met:

- That the parent company holds more than 5% in the Melilla entity uninterrupted during the year prior to the day on which the benefit to be distributed becomes due or, failing that, that it is maintained for as long as necessary to complete one year.
- That the parent company is subject to and not exempt from a tax similar to Corporation Tax.
- That the distribution of profits is not a consequence of the liquidation of the subsidiary.
- That both companies have one of the forms provided in Annex I of the Parent-Subsidiary Directive.

This exemption will not be applicable in Spain when the majority of the voting rights of the parent company are held, directly or indirectly, by a natural or legal person not residing in a Member State or State of the European Economic Area with which there is no effective information exchange.

Therefore, the distribution of a dividend from Melilla to a local entity in another Member State of the European Union would be exempt from taxation in Spain and there would be no obligation to practice any withholding.

**And what would be the treatment in the event that the parent entity was located in any other jurisdiction?**

In these cases, taxation in Spain (19%) may be reduced by the application of the corresponding Double Taxation Agreement



(hereinafter, "CDI") signed between Spain and the country of residence of the beneficiary of said dividends.

However, it must be taken into account that in addition to meeting the legal requirements established in the CDI, it will be necessary to have the corresponding Certificate of Residence of the non-resident partner.

In this regard, although it will be necessary to comply with the provisions of each CDI, the Model Agreement of the Organization for Economic Cooperation and Development (hereinafter, "OECD") establishes, as a general framework, the following taxation limits:

- 5% of the gross amount of the dividends in the event that the effective beneficiary is a company that owns a direct participation of at least 25% of the capital of the company that pays the dividends.
- 15% of the gross amount of dividends in all other cases.

### EXAMPLE

Company located in Melilla whose share capital is made up of 50% by a company located and with tax residence in France and the other 50% by a Chilean entity. It is decided to distribute a dividend for the amount of 1 million euros (500,000 euros to each partner) as a result of the good results obtained in the 2020 financial year.

Below we analyze their tax treatment in Spain:

The dividend distributed to the French entity will be exempt from taxation in Spain and therefore it will not be necessary to apply any withholding on the amount paid.

However, with respect to the Chilean partner, the income obtained will be taxed in Spain at a rate of 19%. However, in accordance with the provisions of article 10 of the CDI between Spain and Chile, the tax required in Spain will be

A. 5% of the gross amount of the dividends if the beneficial owner is a company that directly or indirectly owns at least 25 percent of the capital of the company that pay dividends.

B. 10% of the gross amount of dividends in all other cases.

### In case of disinvestment in a Melilla entity, what would be its tax treatment?

Our regulations establish that those capital gains derived from rights or shares in an entity, resident or not, whose assets are constituted mainly, directly or indirectly, by real estate located in Spanish territory, will be located in Spain.

This has been the criterion followed by the Agreements to Avoid Double Taxation signed by Spain, where the capital gain derived from the transfer of shares in Spanish entities may only be subject to taxation in the MS in which the entity that disposes resides, provided that the 50% of the transferred entity's assets do not correspond to real estate assets located in Spain.

Therefore, the eventual capital gain obtained would not be located in Spain but in the jurisdiction where the entity that transfers the participation is located.

BENEFICIARY			
EU RESIDENT ENTITY		NON-RESIDENT ENTITY IN THE EU	
Dividends	Capital Gain	Dividends	Capital Gain
Exemption in Spain. As a consequence, there is no withholding.	Non-location of the capital gain in Spain, that more than 50% of the assets of the Melilla entity correspond to real estate assets located in Spain.	Taxation in Spain by IRNR. Possibility of reducing the withholding percentage in accordance with the provisions of the Agreement.	Non-location of the capital gain in Spain, unless more than 50% of the assets of the entity from Melilla correspond to real estate assets located in Spain.



## 6. Indirect and Customs Taxation

### Is Melilla part of the Territory of Application of the Spanish Tax (TAI) in VAT matters?

No. Melilla is not part of the TAI and therefore VAT is not applied in the Autonomous City. Melilla has its own indirect municipal tax, called Tax on Production, Services and Importation (IPSI), which is levied on the production, processing and importation of tangible personal property, the provision of services and the delivery of real estate. Located in the Autonomous City of Melilla, determining the tax base in accordance with VAT regulations and with tax rates between 0.5% and 10%

### Is there any incentive for IPSI purposes in the nautical sector?

Yes. In IPSI there is a type of complementary tax on fuels and petroleum fuels, which as a general rule is 62 euros/1,000 liters of general diesel. However, a modification of the Municipal Ordinance that regulates the IPSI has just been approved, which reduces this type of additional tax to 5 euros/1,000 liters in the case of a product destined for yachts or recreational or sport boats. These tax rates make Melilla a clearly competitive territory with respect to the Peninsula.

### Can Melilla be an ideal place for manufacturing?

Sometimes yes. To the extent that the raw material must be imported, Melilla is a clearly competitive place with respect to the rest of the national territory due to the advantages regarding the customs debt of said products. But these tariff advantages do not operate with respect to any product from Melilla, but only those that have the status of originating from the Autonomous City. For this, any of these three assumptions must be met:

- A. The product has been entirely obtained in Melilla.
- B. The product has been obtained from non-originating material, which nevertheless has been subject to
- C. That the process of elaboration or transformation of the product concludes in Melilla, provided that it comes from a country with which cumulation of origin is allowed.

### Is there any incentive regarding Tax on Patrimonial Transfers and Documented Legal Acts?

Yes. The benefits are as follows:

- The gradual quota of notarial documents of the lien of documented legal acts will be discounted by 50% when the Registry in which the registration or annotation of the assets or acts must be made is located in Melilla.

- There will also be a 50% discount on the fee corresponding to the tax on corporate operations when any of the following circumstances occur:

- A. That the entity has its tax domicile in Melilla.

- B. That the entity has its registered office in Melilla, provided that the effective management seat is not located in the territorial scope of another tax administration of a Member State of the European Union or, if so, said State does not tax the corporate operation with a similar tax.

- C. That the entity carries out its traffic operations in Melilla, when its effective management headquarters and its registered office are not located in the territorial scope of another tax administration of a Member State of the European Union or, if so, these States are not tax the corporate operation with a similar tax.

- Fees derived from the application of onerous equity transfer modality shall be entitled to the application of a 50 percent bonus in the following cases:

- A. Transfers and leasing of properties located in Melilla and constitution or assignment of real rights, including guarantees on them.

- B. Constitutions of chattel mortgages or pledges without displacement or refers to ships and aircraft, which must be registered in the Registry located in Melilla.

- C. Transfers of movable property, livestock or credits, constitution and transfer of real rights over them, whose purchasers have their



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habitual residence, if it is a natural person or fiscal domicile, if it is a legal person, in Melilla.

D. Transfers of values that are formalized in Melilla.

E. Constitution of simple loans, sureties, non-real estate leases and pensions whose taxpayers have their habitual residence or tax domicile, depending on whether they are natural or legal persons, in Melilla.

F. Administrative concessions of goods, execution of works or exploitation of services that are located, executed or provided in Melilla.

G. Preventive annotations that occur in a registry body that has its headquarters in Melilla."



## 7. Other Tax Benefits

Local taxation is relevant when establishing a business or professional activity. Is there any incentive in Melilla in this area?

Yes, the Local Treasury Law recognizes a discount of 50% of the quota of all municipal taxes that are applicable in the Autonomous City of Melilla. Therefore, this measure affects, among others, the Tax on Economic Activities (IAE), the Tax on Real Estate (IBI), Tax on Installations, Constructions and Works (ICIO), the Tax on the Increase in Value of Land of Urban Nature (IIVTNU) and the Tax on Mechanical Traction Vehicles (IVTM).

Brexit has motivated numerous operators in the gaming sector to be evaluating possible alternative locations. Is there any type of incentive for this industry in Melilla?

Yes. There is a 50% bonus with respect to the general tax rates regulated by the Gambling Regulation Law with respect to returns from sports betting, horse riding or any other, mutual, counterparty or cross betting, to raffles, contests and other games.

The application of this bonus requires the concurrence of two requirements:

A. That the operator has its fiscal residence in Melilla.

B. That the operator is actually located in the territory of the Autonomous City of Melilla.

For these purposes, it is understood that the operator will really be located in Melilla if it meets the three requirements listed below:

1. Number of personal resources (quantitative criteria). The amount of personal means will result from considering the number of workers of the operator dedicated to the online gambling activity. In this sense, in order for the requirement to be considered fulfilled, more than half of the operator's workforce dedicated to online gambling

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(at least 50%) should have their habitual residence in Melilla.

2. Quality of personal means (quantitative criterion). In order to understand that the personal resources are effectively located in Melilla, the personnel costs associated with the employees assigned to said territory must represent, at least, more than half of the cost of human resources, that is, more than 50% of the costs. company's total personnel costs (wage bill).
3. The costs of the intercompany services received by the subsidiary located in Melilla may not exceed 50% of the total costs of the operator, regardless of the location of the other group entities.

Territories	Melilla	España (rég.Gral)	Gibraltar	Malta
Tax rates applicable to the Gambling Activities Tax	10%	20%	20%	20%

Likewise, companies in the gaming industry that traditionally cannot deduct VAT on advertising and marketing services received and which therefore entails a cost in their income statement, see the cost of indirect taxation associated with these services reduced from 21% VAT at 0.5% IPSI. Therefore, by establishing themselves in Melilla, a saving of 20.5% is achieved**No se encuentran entradas de índice.**



## 8. Summary Tax Benefits

Taxes	Incentive	Normative Reference
Corporate tax	Bonus 50% full quota	Art.33 of Law 27/2014, of November 27, on Corporation Tax
Personal Income Tax	Deduction 60% full state and automatic quotas	Article 68.4 of Law 35/2006, of November 28, on Personal Income Tax
Wealth Tax	Bonificación del 75% cuota íntegra	Article 33 of Law 19/1991, of June 6, on Wealth Tax
Inheritance and Gift Tax	Bonus of 75% full fee	Article 23 Bis of Law 29/1987, of December 18, on Inheritance and Donation Tax
Transfer tax and stamp duty	Bonus of 50% quota in the three modalities of the tax	Artículo 57 Bis del Real Decreto Legislativo 1/1993, de 24 de September, del Impuesto sobre Transmisiones Patrimoniales y Actos Jurídicos Documentados
Property Tax	Bonus of 50% fee	Article 159 of Royal Legislative Decree 2/2004, of March 5, regulating the Local Finance Law
Tax on Economic Activities	Bonus of 50% fee	Article 159 of Royal Legislative Decree 2/2004, of March 5, regulating the Local Finance Law



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Taxes	Incentive	Referencia Normativa
Tax on buildings, installations and works	Bonus of 50% fee	Article 159 of Royal Legislative Decree 2/2004, of March 5, regulating the Local Treasury Law
Tax on the Increase in the Value of Urban Land	Bonus of 50% fee	Article 159 of Royal Legislative Decree 2/2004, of March 5, regulating the Local Treasury Law
Impuesto sobre los Vehículos de Tracción Mecánica	Bonus of 50% fee	Article 159 of Royal Legislative Decree 2/2004, of March 5, regulating the Local Treasury Law
Gambling Activities Tax	Bonus of 50% fee	Article 48 of Law 13/2011, of May 27, on gambling regulation
Value Added Tax	Exempt	Article 2 of Law 37/1992, of December 28, on Value Added Tax.
Special taxes	Exempt	Law 38/1992, of December 28, on Special Taxes.