

FILMING IN SPAIN

Spain is a European Union country with a harmonised regulatory framework.

In order to film in Spain, these are the **most important steps to follow**:

I. CHOOSE A SPANISH PRODUCTION SERVICE COMPANY TO SHOOT WITH:

The foreign productions company need to associate with a Spanish production company to benefit from the tax incentives as established in Article 36.2 of the *Corporate Tax Act*.

Furthermore, the production needs to comply with the following formal requisites:

- In order to benefit from the tax incentives for filming in Spain, it is essential to hire a Spanish production service company. Subsidiaries of international production companies in Spain are not eligible for tax incentives.
- For tax reasons, the Spanish Production Company should incorporate a SPV (Special Purpose Vehicle).
- The rights and obligations between the Foreign Production Company and the Spanish Service Production Company will be regulated under a Production Service Agreement (PSA).

II. MONEY: HOW TO BENEFIT FROM TAX INCENTIVES

- Eligible audiovisual works: feature films, series, animation, documentaries.
- **Map of tax incentives for filming in Spain:**
 - Spain Mainland: 25%-30% tax incentive:
 - i. 30% tax incentive for the first €1,000,000 / 25% for the second million and up to a maximum of €20,000,000 per audiovisual work/ €10.000.000 per tv episode for eligible expenses.
 - ii. The total amount of aid and deductions may not exceed 50% of the production cost.
 - iii. The eligible tax base for the tax incentive must not exceed 80% of the total production cost.
 - iv. Requirements:
 - a. Minimum production budget: €2,000,000
 - b. Minimum expenses incurred in Spain: €1,000,000
 - c. Maximum deduction: €20,000,000 per audiovisual work/ €10.000.000 per tv episode
 - d. Cultural Certificate issued by ICAA (Ministry of Culture).
 - e. The credits should include a mention of tax incentives as well as the collaboration of the relevant public bodies.
 - f. Transfer of rights to use certain materials for the promotion of Spain: title of the production, graphic and audiovisual materials for the press, including specific filming locations or any other production process carried out in Spain.
 - v. Animation and VFX Services hold special regime.
 - vi. **Qualified expenditure:**
 - a. **Creative staff with tax residence in EU countries**
 - b. **Technical industries and suppliers.**

- Navarre: 35% tax credit.
 - i. A minimum amount of filming time in Navarre is required.
 - ii. The production service company must have its tax residence in Navarre.
 - iii. Maximum deduction: €5,000,000
 - iv. The tax base eligible for the tax incentive must not exceed 80% of the total cost of production

- Basque Country:
 - i. Guipuzcoa: 35% tax credit.
 - a. Minimum €500,000 expenditure in the Basque Country.
 - b. Minimum total cost of production: €2,000,000
 - c. Maximum deduction: €10,000,000
 - d. The tax base for the tax incentive may not exceed 80% of the total cost of production
 - ii. Alava: 25% tax credit.
 - a. Minimum expenditure of 500,000€ in Alava
 - b. Minimum total cost of production: 2,000,000€
 - c. Maximum deduction: 10,000,000€
 - d. The tax base eligible for the tax incentive must not exceed 80% of the total cost of production
 - iii. Bizkaia: up to 70% tax credit.
 - a. Minimum expenditure in Bizkaia
 - b. No cash rebate

- Canary Islands: 45%-54% tax incentive
 - i. 50%-54% tax incentive for the first €1,000,000 / 45% from €2,000,000 up to €36,000,000. Per audiovisual work/ €18,000,000 per tv episode.
 - ii. Requirements:
 - a. Canarian audiovisual production certificate
 - b. Minimum shooting time in the Canary Islands and requirements for actors and technical equipment.
 - c. The production service company must be registered in the Registro de Empresas y Obras Audiovisuales de Canarias (Registry of Canary Island Audiovisual Companies and Works).
 - iii. Maximum annual incentive amount for the difference between the national incentive and the Canary Islands incentive: €50 million

IMPORTANT: The tax incentive is claimed by the Spanish production service company as part of its corporate tax return, which must be completed within 6 months of the end of the tax year in which the last production expenditure was incurred. In general, the incentive is paid between 6 and 18 months after the end of production in Spain.

III. LEGISLATION: ASPECTS TO TAKE INTO ACCOUNT WHEN FILMING IN SPAIN (*)

IMPORTANT: Spanish regulations apply regardless of whether the production is undertaken by a foreign company

- Cast & Crew
 - Applicability of labour mobility legislation.
 - Occupational risk regulations.
 - Working time/rest time regulations
- Other regulations to be taken into account:
 - Work permit for minors
 - Weapons and explosives: import, handling and transport
 - Locations: **Contact the network of Film Commissions in Spain, which will tell you the aspects to be taken into account**, such as:
 - i. Traffic regulations on public roads
 - ii. Image rights (important to transfer the image rights of people, places, companies, etc.).
 - iii. Regulations for filming in protected areas.
 - iv. The "fair use" rule for filming does not apply.
 - v. "Freedom of Panorama" is allowed.

IV. INDUSTRY FRIENDLY VISAS FOR SHOOTING IN SPAIN

- Spain has developed a special law for professionals in the audiovisual industry:
 - Who is eligible: actors, technical crew and family members.
 - Possible scenarios:
 - i. To work up to 90 days in Spain: no special permission is needed, as long as your country does not require a visa to enter the Shenghen Area. Equivalent to entering as a tourist.
 - ii. To work from 90 to 180 days in Spain. Industry-specific visa. It can be applied for 90 days prior to travel; Applicant must be outside Spain. Visa process by the Spanish Consulate abroad
 - iii. To work for more than 180 days: ICT long-stay work permit. Special processing of visas for the Audiovisual industry. Applicant can be in Spain or outside Spain.

V. MONEY II: WITHHOLDING TAXES (*):

- Tax obligations of personnel moving to Spain:
 - Existence of double taxation treaties between OECD countries.
 - Withholding taxes in Spain:
 - i. 24% for non-EU citizens.
 - ii. 19% for EU citizens

- Obligation of the employer who has posted the professionals to Spain. The foreign production company must report it and withhold tax from its workers.
- Tax returns are filed every month or every 3 months, depending on the obligation of the Spanish producer.
- Returns are filed to the AEAT (Tax Authority) in Spain.
- Possible applicability of other tax obligations. Consult country by country.

VI. END OF FILMING. LAST STEPS TO BE TAKEN BY THE SPANISH PRODUCTION SERVICE COMPANY:

- In economic terms, filming ends when the last production cost is incurred in Spain.
- Closing of accounts.
- Corporate tax return filing (in the following tax year).
- In general, the Spanish production company pays the tax incentive to the foreign production company within the timeframe established in the contract, once it has received it from the AEAT.

*** Important note: this document is for informational and promotional purposes only. It does not involve any legal or tax advice. For more detailed and legally valid information, remember to consult your professional advisers.**