

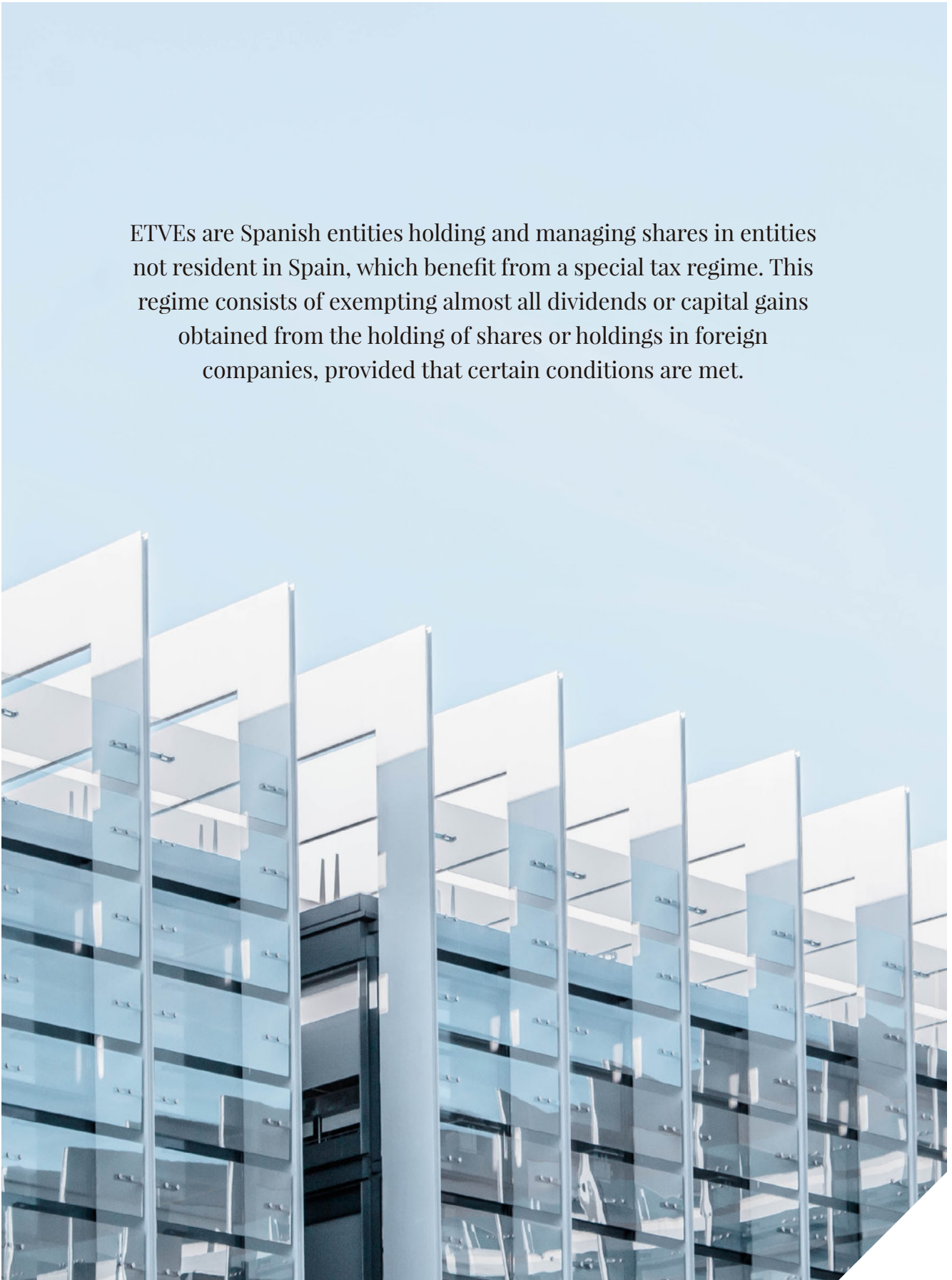
The ETVs regime Regulation and advantages

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Product

ETVEs are Spanish entities holding and managing shares in entities not resident in Spain, which benefit from a special tax regime. This regime consists of exempting almost all dividends or capital gains obtained from the holding of shares or holdings in foreign companies, provided that certain conditions are met.



1

Where is the ETVE regime regulated?

The special tax regime for ETVEs (Entidades de Tenencia de Valores Extranjeros) was introduced in Spain in 1995 to attract foreign investment with benefits similar to those established in other jurisdictions, such as Luxembourg and the Netherlands. Currently, the special tax regime for ETVEs is regulated in Law 27/2014, of November 27, on Corporate Income Tax, in articles 107 and 108, in conjunction with article 21.

The advantage of this special tax regime is that income from (i) the distribution of dividends by investees and (ii) capital gains generated by the transfer of shares in non-resident entities is considered 95% exempt in Spain, provided that certain requirements are met.

2

What are the requirements for the ETVE vehicle?

The ETVE vehicle may take the legal form of a limited company, with a minimum share capital of €1,00, or a public limited company with registered shares, with a minimum share capital of €60,000, and must have its registered office in Spain.

The corporate purpose of an ETVE must expressly include the activity of management and administration of securities representing the equity of non-resident entities in Spanish territory, by means of the corresponding organization of material and personal resources. It may also include any other activities that are appropriate or necessary for the achievement of the corporate purpose, i.e., it does not need to have an exclusive corporate purpose.

The most important requirement is that the holding of shares in non-resident entities must be active, which means that the ETVE cannot be a merely instrumental and opaque company made up only of assets and liabilities but must have its own organization of personal and material resources to carry out the management and administration of the shares.

Although the ETVE regime is not subject to administrative authorization, nor to specific procedures or requirements, the application for the special ETVE tax regime must be submitted to the AEAT before the end of the tax year in which the exemption of the income received from the investee companies is to be applied.

Finally, to benefit from the special ETVE tax regime, the foreign investment vehicle must meet the following requirements:

- That the shareholding in the entity is at least 5% of the share capital, directly or indirectly.
- The shareholding must be held continuously for at least one year.
- That the investee has been taxed and subject to a foreign tax identical or similar to corporate income tax during the year in which the profits to be distributed or in which it participates were obtained. This requirement will be deemed to be met when the country of the investee has signed an agreement with Spain to avoid international double taxation and allows the exchange of information.

3

Can the ETVE carry out other non-ETVE activities?

Yes, entities that opt for the application of the special ETVE tax regime can also carry out activities other than the activity of holding shares in foreign entities, maintaining the application of this regime only with respect to qualified income of foreign origin. The rest of the income produced by the other activities would be taxed as applicable.

4

What is the taxation regime with an ETVE?

Dividends distributed to the ETVE by its subsidiaries are 95% exempt from corporate income tax, provided that the above conditions are met.

Likewise, capital gains generated by the sale of shares in foreign entities will also be exempt from corporate income tax at the same percentage as above, provided that the above conditions are met.

Thus, profits distributed by the ETVE to its shareholders will be treated as follows:

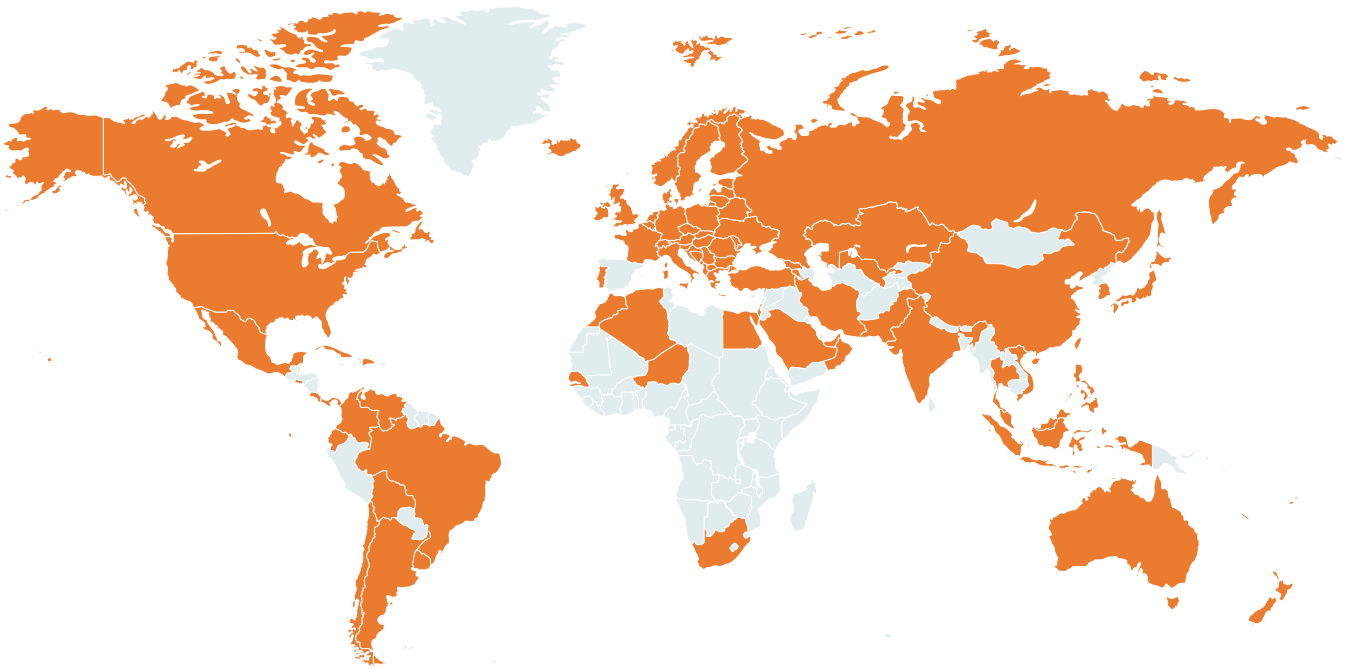
- Partner legal entity resident in Spain and subject to Corporate Income Tax: the dividends will not entitle to any double taxation deduction.
- Shareholder who is an individual resident in Spain and subject to personal income tax: the distributed profit will not entitle the shareholder to any double taxation deduction.
- Shareholder who is an individual or legal entity not resident in Spain (and without a Permanent Establishment in Spain): the percentage of the distributed dividends that enjoys the aforementioned exemption will not be considered to have been obtained in Spanish territory and therefore will not be subject to any withholding tax, unless the shareholder is located in a country or territory classified as a tax haven.



5

What are the advantages of using the ETVE regime in Spain?

Spanish ETVEs benefit from the enormous network of double taxation and/or exchange of information agreements that Spain has, particularly with Europe and Latin America, a total of 104.



The regime is especially beneficial when the ETVE is used in international relations of economic operators' resident in countries that do not have an International Double Taxation Agreement with each other, but have signed one with Spain.

Incompatibilities

- Companies whose main activity is the management of movable or real estate assets.
- Spanish or European economic interest groupings.
- Temporary joint ventures.

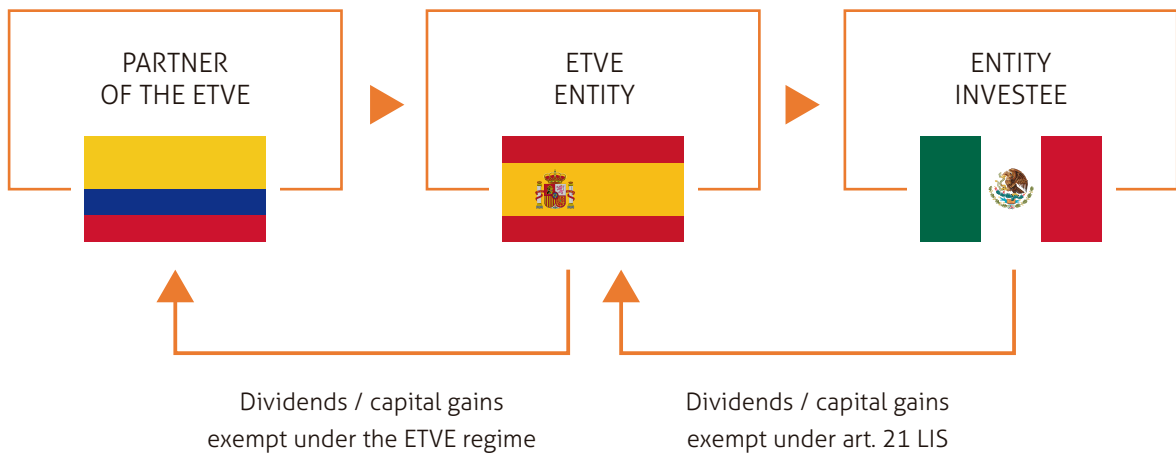
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A practical example of the application of the ETVE regime:

A Colombian company sets up a limited liability company in Spain as a holding company of a subsidiary in Mexico.

After a few years, after accumulating €200,000 of distributable reserves, it decides to distribute dividends.

The Colombian partner and the investment are subject to the special tax regime for ETVEs and therefore, in the activity of holding foreign securities (the shareholding in the Mexican company), 95% of the dividends distributed will not be considered to have been obtained in Spanish territory and therefore will not be subject to any withholding tax.



In the same scenario as above, let us imagine that the Spanish ETVE, in addition to the holding activity of the Mexican company, has a shareholding in another Spanish company. If, in addition to the €200,000, it receives €100,000 from the holding activity of the Spanish company, the €100,000 from the Spanish investee to the ETVE will also be 95% exempt under Article 21 LIS. However, in the payment of dividends from the ETVE to the Colombian partner, 95% of the €200,000 from the Mexican entity would be exempt under the ETVE regime, while 95% of the €100,000 from the Spanish activity would be taxed under the general regime, which in this case would be the one applicable under the double taxation agreement signed between Spain and Colombia.



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