

Our guide to ETVEs

ETVEs

An ETVE is a Spanish-resident entity whose corporate purpose includes the management and administration of holdings in non-resident entities and which opts into the special regime set out in Articles 107 and 108 of the Corporate Income Tax Law.

Where is the ETVE regime regulated?	The ETVE regime is governed by Articles 107 and 108 of Law 27/2014 on Corporate Income Tax (CIT Law), which regulate the regime for Foreign Securities Holding Entities; by Article 21 CIT Law, which governs the exemption applicable to certain dividends and capital gains from shareholdings; and by Article 51 of the Corporate Income Tax Regulations, which governs the notification of the election into, and waiver of, the regime. Dividends and capital gains from holdings that meet the requirements of Article 21 may benefit from its exemption regime. In addition, the ETVE offers specific treatment for certain profit distributions and income obtained by non-resident shareholders, which can make it particularly well suited to international structures.
What are the requirements for an ETVE vehicle?	ETVE regime requirements: • Corporate purpose: must include the management and administration of holdings in non-resident entities. • Adequate organisation: there must be an organisation of material and human resources appropriate to that activity. • Registered shares: the ETVE's shares or participations must be registered. • Excluded entities: AIEs (Economic Interest Groupings), UTEs (Temporary Business Unions) and entities qualifying as asset-holding entities may not opt into the regime. • Election into the regime: the election is notified to the tax authorities using Form 036. The regime applies to the tax period ending after the notification and to subsequent periods unless it is waived. Requirements to apply the exemption on dividends and capital gains: • Shareholding: a direct or indirect shareholding of at least 5%. • Holding period: compliance with the holding period provided for by law. • Taxation of the foreign entity: for foreign holdings, the investee must be subject to a tax identical or analogous to Spanish Corporate Income Tax at a nominal rate of at least 10%. • Double Tax Treaty: this requirement is deemed met where there is an applicable DTT with Spain containing an exchange-of-information clause.

Can an ETVE carry out non-ETVE activities?

Yes. The regime applies only to qualifying foreign-source income; income derived from other activities is taxed under the rules otherwise applicable to it.

What is the tax regime for an ETVE?

Dividends received by the ETVE and capital gains derived from shareholdings may, as a general rule, benefit from a 95% exemption where the requirements of Article 21 CIT Law are met. Where the standard 25% Corporate Income Tax rate applies, only 5% of the income remains taxable, resulting in an equivalent effective tax rate of 1.25%.

Distributions by the ETVE to its shareholders will be treated as follows:

- Where the shareholder is subject to Spanish Corporate Income Tax or Non-Resident Income Tax with a permanent establishment in Spain, the dividends received are taxed in accordance with the general provisions of the CIT Law. Where the requirements of Article 21 are met, the exemption provided for in that Article may apply.
- Spanish individual shareholders: The income received is classified as savings income and is included in the taxable savings base, subject to progressive tax rates ranging from 19% to 30%. In conclusion, there is no differentiated tax treatment under the applicable regime for dividends derived from exempt income compared to any other type of dividend.
- **Treatment of distributions to non-residents:** profits distributed out of certain exempt foreign income may be treated as not obtained in Spain where the shareholder is a non-resident without a permanent establishment, subject to the legal requirements and exclusions.

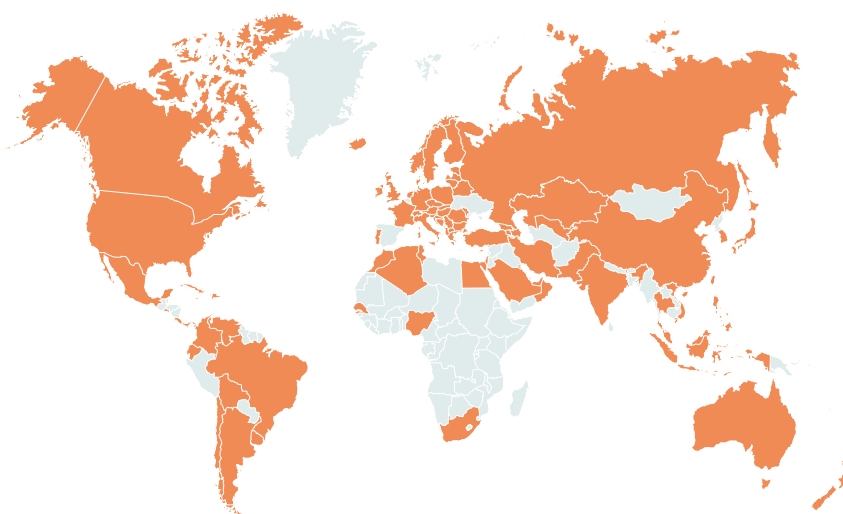
What Double Tax Treaty network does Spain have?

Spain currently has 99 double tax treaties in force, whose application must be analysed in light of the structure, the jurisdictions involved and anti-abuse rules.

IN FORCE:

Albania	Georgia	Paraguay
Algeria	Germany	Philippines
Andorra	Greece	Poland
Argentina	Hong Kong	Portugal
Armenia	Hungary	Qatar
Australia	Iceland	Romania
Austria	India	Russia
Azerbaijan	Indonesia	Saudi Arabia
Barbados	Iran	Senegal
Belarus	Ireland	Serbia
Belgium	Israel	Singapore
Bolivia	Italy	Slovakia
Bosnia-Herzegovina	Jamaica	Slovenia
Brazil	Japan	South Africa
Bulgaria	Kazakhstan	South Korea
Canada	Kuwait	Sweden
Cape Verde	Latvia	Switzerland
Chile	Lithuania	Tajikistan*
China	Luxembourg	Thailand
Colombia	Malaysia	Trinidad and Tobago
Costa Rica	Malta	Tunisia
Croatia	Mexico	Turkey
Cuba	Moldova	Ukraine*
Cyprus	Morocco	United Arab
Czechia	Netherlands	Emirates
Dominican Republic	New Zealand	United Kingdom
Ecuador	Nigeria	United States
Egypt	North Macedonia	Uruguay
El Salvador	Norway	Uzbekistan
Estonia	Oman	Venezuela
Finland	Pakistan	Vietnam
France	Panama	

* Former USSR treaty



Incompatibilities

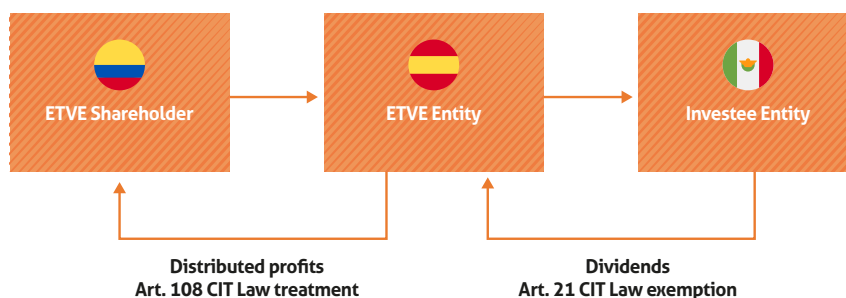
The following may not opt into the regime:

- Entities qualifying as asset-holding entities under Article 5.2 CIT Law.
- Spanish or European Economic Interest Groupings.
- Temporary Business Unions (UTES).

Practical Example

A Colombian company sets up an ETVE in Spain that holds a Mexican company. If the shareholding meets the requirements of Article 21 CIT Law, the dividends received by the ETVE may benefit from the corresponding exemption.

Subsequently, when the ETVE distributes profits out of that exempt foreign income to the Colombian shareholder, the portion meeting the requirements of Article 108 may be treated as not obtained in Spanish territory.



Based on the same scenario, let us now assume that the Spanish company established as an ETVE not only holds a participation in the Mexican subsidiary but also owns a stake in another company resident in Spain.

In this context, in addition to the EUR 200,000 in accumulated reserves from the Mexican subsidiary, the ETVE receives EUR 100,000 in dividends from the Spanish company in which it holds a participation.

Regarding the taxation of these incomes at the level of the ETVE, the EUR 100,000 received from the Spanish company would also benefit from a 95% exemption, pursuant to the dividend double taxation exemption regime set forth in Article 21 of the Spanish Corporate Income Tax Law (LIS).

However, when distributing dividends to the Colombian shareholder, the tax treatment will differ depending on the source of the funds:

- **Dividends from the Mexican subsidiary:** specific treatment under Article 108 CIT Law for the portion corresponding to exempt foreign income.
- **Dividends from a Spanish company:** do not, on that basis alone, benefit from the specific Article 108 treatment provided for income from non-resident entities. The taxation of the distribution to the Colombian shareholder must be analysed under Non-Resident Income Tax and the applicable DTT.



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Seegman refers to the company Seegman Servicios Jurídicos, S.L.P., with tax identification number B88144852.

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