Spain

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What's new?

Summary of updates/Changes to R&D and government incentives from 1 January 2019 through 31 October 2020

For fiscal years beginning in 2020 and 2021, the tax credit percentage for technological innovation activities will be 25% (previously 12%) for expenditure resulting in technological advances in developing new production processes in the value chain for the automotive industry or making substantial improvements to existing processes. To claim the tax credit, an entity must obtain a reasoned report on the qualification of the activity as eligible technological innovation.

Featured government incentives

Incentive name	Description	Maximum percentage	Qualification standards	Key exclusions or issues
R&D tax credits	Corporate tax credits for expenses incurred for R&D and technological innovation	Volume-based credit: 25% of qualifying expenditure Incremental credit: 42% of qualifying expenditure Personnel credit: 17% of qualifying expenditure R&D equipment credit: 8% of qualifying expenditure Technological innovation credit: 12% of qualifying expenditure (25% for expenditure relating to the automotive industry in certain cases)	Qualifying expenditure includes personnel costs, costs of instruments and equipment, costs of contractual research	R&D certification may be obtained from the relevant body
EU R&D grants	Various cash grant programs are available	Up to 100% of qualifying expenditure	Qualifying expenditure varies depending on the grant	Projects may be collaborative
Reductions in social security contributions for research staff	Optional reduction in contributions	A reduction may be available for up to 40% of a company's social security contributions for common contingencies related to research staff	Social security contributions are qualifying expenditure	Employees must be dedicated exclusively to R&D and/or technological innovation activities The social security contribution must be related to specific groups

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Industries most often affected by government incentives in country

	Technology, Media & Telecom		**Financial Services**
●	Telecom, Media & Entertainment	●	Banking & Capital Markets
●	Technology	●	Insurance
	Consumer		Investment Management
●	Consumer Products		Real Estate
	Retail, Wholesale & Distribution		**Life Sciences & Health Care**
●	Automotive	●	Health Care
●	Transportation, Hospitality & Services	●	Life Sciences
	Energy, Resources & Industrial		**Government & Public Services**
●	Power & Utilities		Health & Social Care
●	Mining & Metals		Defense, Security & Justice
●	Oil, Gas, & Chemicals		Civil Government
●	Industrial Products & Construction		International Donor Organizations
			Transport

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Type	National incentive?	State, provincial, regional or local incentives?[1]	Filing deadlines imposed?	Is the claim made in advance or arrears?[2]	Nature of incentive	Maximum benefit available to large enterprises	Maximum benefit available to small and medium-sized enterprises
Innovation							
Research & development (R&D)	🟢	🔴	🟢 ⚪	National: Arrears Local: Not applicable	Tax credits for R&D and technological innovation projects; qualifying expenses include personnel costs, costs of subcontractors and tangible assets, and other related costs	In some instances, the tax credit can exceed 25% of qualifying expenses	In some instances, the tax credit can exceed 25% of qualifying expenses
Patent box	🟩	🔴	🔴 ⚪	National: Advance Local: Not applicable	Partial tax exemption for net qualifying income from the licensing or transfer of qualifying intangible assets	Exemption for 60% of net qualifying income	Exemption for 60% of net qualifying income
R&D grants (national)	🟢	🔴	🟢	Advance	Cash grants to support the creation of new products, processes, and services, with eligible costs depending on the grant	Up to 25% of qualifying expenditure	Up to 40% of qualifying expenditure
R&D grants (EU)	🟩	🔴	🟢	Advance	Cash grants to support the creation of new products, processes, and services, with eligible costs depending on the grant	Up to 100% of qualifying expenditure	Up to 100% of qualifying expenditure
R&D grant (State/ Province)	🔴	🟢	🟢	Advance	Cash grants to support the creation of new products, processes, and services, with eligible costs depending on the grant	Up to 25% of qualifying expenditure	Up to 40% of qualifying expenditure

Key: 🟢 = PERMANENT INCENTIVE 🟩 = TEMPORARY INCENTIVE 🟨 = NEGOTIABLE 🔴 = NO 🟡 = LIMITED APPLICABILITY ⚪ = NOT APPLICABLE

Notes:

1. Green means that this incentive is currently in effect. Yellow means that the incentive has limited applicability, i.e., the requirements for this incentive limit its value to most companies. Red means that there is no incentive.
2. If the response is advance, this means that the government must approve the award of the incentive prior to the commencement/completion of the project/activity. If the response is arrears, this means that the award of the incentive is determined at the end of the tax period or after the completion of the qualifying project or activity. Most tax incentives are considered to be claimed in arrears because they are reported on tax returns.

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Investment							
Capex	Permanent incentive	No	Permanent incentive Permanent incentive	National: Advance Local: Advance	Cash grants to support Capex investment, with eligible costs depending on the grant	Up to 15% of qualifying expenditure	Up to 40% of qualifying expenditure
Employment incentives	Permanent incentive	No	No Not applicable	National: Advance Local: Not applicable	Direct reductions of social security contributions	Up to 75%–100% reduction of social security contributions	Up to 75%–100% reduction of social security contributions
Training incentives	Permanent incentive	No	No Not applicable	National: Advance Local: Not applicable	Direct reductions of social security contributions	Varies	Varies
Environmental sustainability							
Sustainability incentives	Permanent incentive	Permanent incentive	Permanent incentive Permanent incentive	National: Advance Local: Advance	Cash grants to support a wide range of sectors (transport, renovation of buildings, energy, etc.)	Up to 15% of qualifying expenditure	Up to 30% of qualifying expenditure

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Country background

The standard corporate income tax rate in Spain is 25%, but different rates apply to specific industries: oil companies (33%), savings banks (30%), real estate investment trusts (REITs) (19%), and investment funds (1%).

Spain offers an immediate tax deduction for qualifying R&D expenditure, as well as research tax credits for technological innovation.

Innovation Incentives

Research & Development (R&D)

Nature of incentives

Volume-based credit

The volume-based credit is equal to 25% of the R&D expenses incurred in the tax year. In addition to this tax credit for general R&D expenses, there is an incremental R&D tax credit (described below).

Incremental credit

The incremental credit equals 42% of the amount by which the current-year R&D expenditure exceeds the average of such expenditure incurred in the preceding two tax years. The incremental credit is available in addition to the volume-based credit, so if the taxpayer's current year spend exceeds the average of the prior two years, the taxpayer will receive a credit equal to 25% of the total current-year expenses, plus 42% of the excess over the average of the prior two years.

Personnel credit

A 17% credit is available for wages paid to qualifying researchers dedicated exclusively to R&D.

R&D equipment credit

An 8% credit is available for amounts invested in tangible and intangible fixed assets (excluding real estate) used exclusively for qualifying R&D purposes.

Technological innovation credit

Expenses incurred for research activities that result in technological innovation for existing products are eligible for a 12% credit, up to a maximum allowance of EUR 1 million for expenses relating to the acquisition of know-how, licenses, and patents.

For fiscal years beginning in 2020 and 2021, the credit has been modified specifically for technological innovation activities involving production processes in the value chain for the automotive industry:

- The tax credit percentage for technological innovation activities will be 25% (increased from 12%) for expenses resulting in technological advances in developing new production processes in the automotive industry's value chain or making substantial improvements to existing processes.
- To claim the tax credit, an entity must obtain a "reasoned report" on the qualification of the activity as eligible technological innovation.

Credit limitations

If the amount of qualifying R&D expenses for the tax year exceeds 10% of the tax due (after reducing the deductions to prevent double taxation and bonuses from other incentives), the tax credits may not be used to offset more than 50% of the gross amount of tax due. If the amount of R&D expenses does not exceed 10% of the tax due (after reducing the deductions to avoid double taxation and bonuses), the credits may offset up to 25% of the gross amount of tax due.

Unused credits may be carried forward for 18 years and the Spanish tax authorities will have 10 years to review tax credits that have been generated but not utilized. To obtain legal certainty, a taxpayer can apply to the Spanish tax authorities to validate the qualification of a research project.

Special rules enable taxpayers to be eligible for refunds for unutilized credits if they elect to reduce the credits they otherwise could utilize by 20%. The refund is subject to the following annual limitations:

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- EUR 1 million if the credit was attributable to technological innovation-related expenses;
- EUR 3 million if the credit was attributable to R&D and technological innovation-related expenses (in general); or
- EUR 5 million if the credit was attributable to R&D and technological innovation-related expenses for companies with R&D expenditure exceeding 10% of net revenue.

To obtain refunds of unutilized credits, the following requirements must be fulfilled:

- At least one year must have passed from the end of the tax year in which the tax credit was generated but not utilized;
- The average number of personnel, or the average number of personnel involved in R&D and technological innovation, must be maintained from the end of the tax period in which the tax credit is generated until 24 months after the end of the period in which the corporate income tax return where the application or payment of the tax credit is reported is filed;
- An amount equivalent to the tax credit applied or paid (i.e., the "cash refund") must be invested in R&D and technological innovation for the same period mentioned in the previous bullet; and
- The company must obtain a pre-validation report that the activity qualifies as R&D and technological innovation or must have a previous valuation agreement on the expenses and investment in these activities.

Eligible industries and qualifying costs
All industries are eligible for R&D tax credits for costs incurred in qualifying activities.

R&D activities include original planned investigation aimed at acquiring new knowledge and greater understanding in scientific or technological fields. Development is considered to be the application of the results of research or of any other kind of scientific knowledge for the manufacture of new materials or products or for the design of new production processes or methods, as well as for the substantial technological improvement of materials, products, processes, or existing methods (including software development).

Qualifying R&D expenses include wages paid to employees engaging in research and the cost of investments in fixed assets that are dedicated exclusively to R&D activities. Indirect expenses are excluded.

Software development activities did not qualify for research tax credits for tax years before 2015 unless they involved a significant scientific and technological advancement. The definition of qualifying R&D now includes advanced software development activities without additional limitations. Advanced software development activities generally are limited to developments that are innovative (e.g., pilot projects related to animations developed for video games).

Intellectual property (IP) and jurisdictional restrictions
To qualify for any credit, all qualifying R&D must take place in Spain or an EU/EEA member state. IP ownership does not affect whether the taxpayer can claim the credit.

Patent box

The patent box regime excludes from taxable income 60% of net qualifying income from the licensing or the transfer of qualifying intangible assets. Under the patent box rules that apply for tax periods beginning on or after 1 January 2018, qualifying intangible assets are restricted to patents, utility models, supplementary protection certificates for medical purposes, legally protected models and designs, and registered software that results from R&D projects. Blueprints; formulas; trade secrets; and industrial, commercial, or scientific know-how no longer qualify for the regime.

The patent box regime has been amended to bring the rules in line with the OECD "nexus approach." Under the revised rules, a ratio is applied to determine qualifying income, which may limit or eliminate the benefits available under the patent box in situations where the taxpayer has not created the relevant intangible asset (through its own resources or through subcontracting work to unrelated third parties). The profit subject to the exemption is calculated taking into

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account qualifying income derived from the intangible asset, less costs related to the creation of the intangible, provided the costs have not been capitalized and amortized or otherwise deducted when calculating taxable income.

The ratio is the lower of 1 or the result of applying the following formula:

- 130% of expenses (other than financing expenses and depreciation of buildings) incurred by the taxpayer that are directly connected to the creation or development of the relevant intangible asset, including expenses incurred as a result of outsourcing to unrelated third parties

Divided by:

- 100% of expenses (other than financing expenses and depreciation of buildings) incurred by the taxpayer that are directly connected to the creation or development of the relevant intangible asset, including expenses incurred as a result of outsourcing and expenses incurred for the acquisition of the intangible asset.

The tax exemption is the result of multiplying the ratio described above by 60%. Therefore, if the ratio is 1, there is a full 60% tax exemption; if the ratio is lower than 1, the exemption is reduced accordingly.

Where the taxpayer benefited from the patent box regime in previous years, the tax computation of negative results (i.e., losses determined on the basis of expenses linked to qualifying assets) incurred in the current year is limited as follows:

- The loss will be reduced by the applicable percentage to determine the patent box incentive if a positive result were obtained.
- This restriction on the computation of losses will apply up to the amount of positive results derived in previous years that benefited from the patent box incentive. Once this amount is exceeded, the additional loss may be computed without limitation for the purpose of calculating the corporate income tax liability, and should be taken into account in offsetting future qualifying profits that benefit from the patent box regime.

Notwithstanding the above, a transitional elective regime is available as follows:

- If the intangible asset was licensed before 29 September 2013, the taxpayer can elect to apply the rules that applied before that date, providing a reduction of 50% of the gross qualifying income as long as it does not exceed six times the cost of the intangible asset; or
- If the intangible asset was licensed on or after 29 September 2013 but before 1 July 2016, or if the asset is transferred before 30 June 2021, the taxpayer may elect to apply the rules in effect before 1 July 2016, rather than the new rules. Under the pre-1 July 2016 rules, the net qualifying income is reduced by 60%, provided the intangible is created by the entity that has borne at least 25% of the costs.

An election to apply earlier rules will be applicable up to 30 June 2021; thereafter, the revised rules will apply, i.e., resulting in the limitations from the above-described ratio.

R&D grants

The central government and the 17 autonomous communities offer research grants that typically are targeted at certain industries or outcomes and can cover up to 40% of qualifying project costs for small and medium-sized enterprises (SMEs) and 25% for large companies. Among the most noteworthy grants are the following:

R&D CDTI: A company or a consortium can present projects to create and significantly improve a production process, product, or service. The project can include both industrial research and experimental development activities. There are three categories: individual R&D projects, R&D projects in national cooperation, and international technological cooperation projects. International technological cooperation projects are multilateral/bilateral projects to allow Spanish companies to reinforce their technological capacities, while also extending the impact of their products, processes, and services in global markets.

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ENISA: ENISA is Spain´s leading government agency for the development of innovation-based and high growth potential companies and Spain's most active public fund that backs entrepreneurial spirit. This program aims to fund projects with viable and profitable business models.

Call for digital technologies (THD): For this call, information and communication technology (ICT) projects can be presented by a single company or by a consortium. Many types of projects are eligible, including the following: future internet, cloud computing, massive data processing, apps for the mobile ecosystem, smart cities, cybersecurity and digital confidence, ICT applications, and solutions aimed at improving the competitiveness of SMEs, the evolution of e-government, health and social welfare applications, and environmental management applications and solutions related to digital content.

Investment incentives

Incentives for Capex

Incentives in the form of cash grants are available for investment projects designed to acquire and/or upgrade assets to establish or to expand the productive capacity of a business:

Regional incentives: These promote productive investment geared toward promoting business activity. The object of these subsidies is to offset imbalances between Spanish territories. Promoted projects are those that create new establishments, extend an activity that already has been established, or start up a new activity, as well as projects designed to modernize installations. Buildings, machinery, and fixed equipment can be part of the base that can be subsidized.

Re-industrialization aids: This incentive targets investment for new industrial plants, as well as for increasing manufacturing production capacity or relocations to gain competitiveness. The purchase of fixed assets is subsidized, as are civil works and the acquisition of devices and material equipment directly linked with the production.

Employment incentives

A reduction may be available for up to 40% of a company's social security contributions for common contingencies related to research staff. The employees must be dedicated exclusively to R&D and/or technological innovation activities and the social security contribution must be related to specific groups.

Training incentives

The Tripartite Foundation offers incentives that include direct reductions in social security contributions for qualifying training programs. Priority is given to applicants that are SMEs, women, the disabled, persons aged 45 years and over, and low-skilled workers.

Environmental sustainability incentives

In the 2014–2020 National Energy Efficiency Plan, the government presented a wide range of cost-saving and energy efficiency measures in all sectors to fulfill the 2020 objectives. The incentives include the following:

- Incentive for the Energy Renovation of Existing Buildings Assistance Program (PAREER) in the housing and hotel residential sector (allocated EUR 125 million);
- Incentives for the environmental support plan for the purchase of commercial vehicles (allocated EUR 38 million);
- Incentives for the energy renovation of hotel facilities (PIMA SOL); and
- Incentives for promoting the rental of housing, building renovation, and urban regeneration.

Grants typically are up to 30% of eligible costs for SMEs (15% for large companies).