



# Mandatory Tax Representation in Spain

## General Background

In this memorandum we give a short overview of the different tax representation requirements for non-resident entities that want to have an establishment in Spain, their potential liabilities, and the services that Corpag offers to these clients.

The following scenarios will be explained:

1. Tax representation of a permanent establishment located in Spain, also known as a "Branch".
2. Tax representation of employees of a non-resident entity in Spain, who have no authority to close commercial contracts and therefore, without triggering a permanent establishment, also known as "Representation office" and "Employment without establishment".
3. Tax representation of a non-resident fund having an economic interest in Spain, also known as "Non-resident investment fund".
4. Tax representation of non-resident entities with VAT obligations in Spain, also known as "VAT non-resident entity".



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## Branch

In the first scenario, a non-resident entity decides to establish a Branch in Spain. The Branch does not have its own legal personality in Spain. Therefore, its business and legal liability are always directly linked to the non-resident entity.

Article 10 of the Non-Resident Income Tax Law (“**LIRNR**”) stipulates in what cases the appointment of a tax representative to represent the taxpayer in their obligations in tax matters before the Spanish Tax Administration is required. One of these cases is when an entity operates in Spain through a Branch (i.e. permanent establishment).

Corpog can take on the role as tax representative for our clients that have a Branch in Spain, and act as liaison between local tax authorities and the non-resident entity. Corpog usually combines this role with the following services: domiciliation, accounting, tax filing (CIT, VAT & withholding taxes) and payroll services.

## Representative office / Employment without establishment

In the second scenario, a non-resident entity employs one or more employees that reside and carry out their activities in Spain, without authority to close commercial contracts. This requirement is crucial: if the employees have the power to close commercial contracts, then the Spanish Tax Administration would consider it a Branch (i.e. permanent establishment).

The tax obligations of the non-resident entity towards the Spanish Tax Administration can be summarized as the effective withholding of the Personal Income Tax of the employees in Spain, pursuant to articles 30 and 31 of the LIRNR.

Under these circumstances Corpog can provide tax representation services, domiciliation, payroll and tax filing services (i.e. Personal Income Tax withholdings & Social Security contributions), and also act as liaison between the local tax authorities and the non-resident entity.





### Non-resident investment fund

In the third scenario, Corpag acts as tax representative for a non-resident investment fund that holds participations in a Spanish entity.

Based on article 3 of the Collective Investment Institutions law (“LIIC”), non-resident investment funds are Collective Investment Institutions (“IICs”) configured as separate assets without legal personality, belonging to a plurality of investors. As non-resident investment funds are regulated as IICs under the LIIC, they are considered taxpayers for Spanish Corporation Tax and consequently the non-resident investment fund has the obligation to appoint a tax representative.

Corpag can be appointed as tax representative for a non-resident investment fund and Corpag can provide tax filing services (non-resident income tax), and act as liaison between the local tax authorities and the non-resident investment fund.

### VAT non-resident entity

In this fourth scenario, Corpag acts as tax representative for a non-resident entity with VAT obligations in Spain.

Next to be appointed as formal tax representative, Corpag will act as liaison between the local tax authorities and the non-resident entity.

**\*\*Disclaimer of No Legal Advice Intended\*\***

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