SPANISH TAX SYSTEM

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BASIC CONCEPTS AND HISTORY

A tax system is defined as:

- a systematically ordered set of taxes
- integrated into the legal system of a given territorial entity
- inspired by common principles
- whose purpose is to meet public spending and serve as an instrument to meet other purposes

Main characteristics:

- temporary validity: influence of the historical period and the political structure of the moment in which it takes place
- coordination between the taxes that comprise it
- suitability to achieve tax policy objectives
- possibility of achieving non-tax purposes and economic policy measures

HISTORICAL EVOLUTION OF SPANISH TAX SYSTEM

BEFORE 1845

- there was no proper system: the multiplicity and variety of existing taxes did not obey criteria of fiscal rationality, nor did they respond to taxes applied in other countries.

23 May 1845

Reform of Mon-Santillan: Act of 23 May 1845

- Systematisation of previous taxes; adaptation to economic reality; expansion of taxation; and effectiveness of collection management.

27 March 1900

Fernández-Villaverde Reform: Act of 27 March 1900

- Rationalized and systematized direct taxes and expanded indirect taxation

16 December 1940

Larraz Reform: Act of 16 December 1940

- Collection purpose (caused by the economic effects of the Civil War). Taxes are used because are easy to collect with minimal fraud and stimulate savings.

26 December 1957

First reform of Navarro Rubio: Act of 26 December 1957

- Attack on fraud and restructuring of pre-existing taxes

11 July 1964

2nd Navarro reform: Act 41/1964 of 11 July

- Simplification and clarity of the tax system through creation of three direct taxes (product tax system to a personal tax on global income) and three indirect taxes; approval of GTL and others; and collection purpose.

HISTORICAL EVOLUTION OF SPANISH TAX SYSTEM

- **Tax reform initiated by Fernández Ordóñez and García Añoveros in 1977**
  - - Tax reform of the 'political transition' that constitutes the current Spanish tax system
  - - Main characteristics:
    - 1. Consistency with the democratic regime and adaptation to constitutional principles
    - 2. Like tax systems of the European Union (formerly EEC)
    - 3. Greater personalization and subjectivation of direct taxation
    - 4. Regulation and voluntary regularization of the tax situation
    - 5. Greater rationalization and systematization of indirect taxation
    - 6. New regulation of tax crime
    - 7. Lifting of bank secrecy
    - 8. Elimination of tax juries
    - 9. Modernization of the tax authority
    - 10. Coordination with regions and local entities
  - Since 1977, important reforms of certain taxes have been made, but they have not had a significant changed the composition of the tax system created at that time. The introduction of VAT in 1986 is perhaps the most remarkable change.

CONCEPTUAL CLASSIFICATION OF TAXES

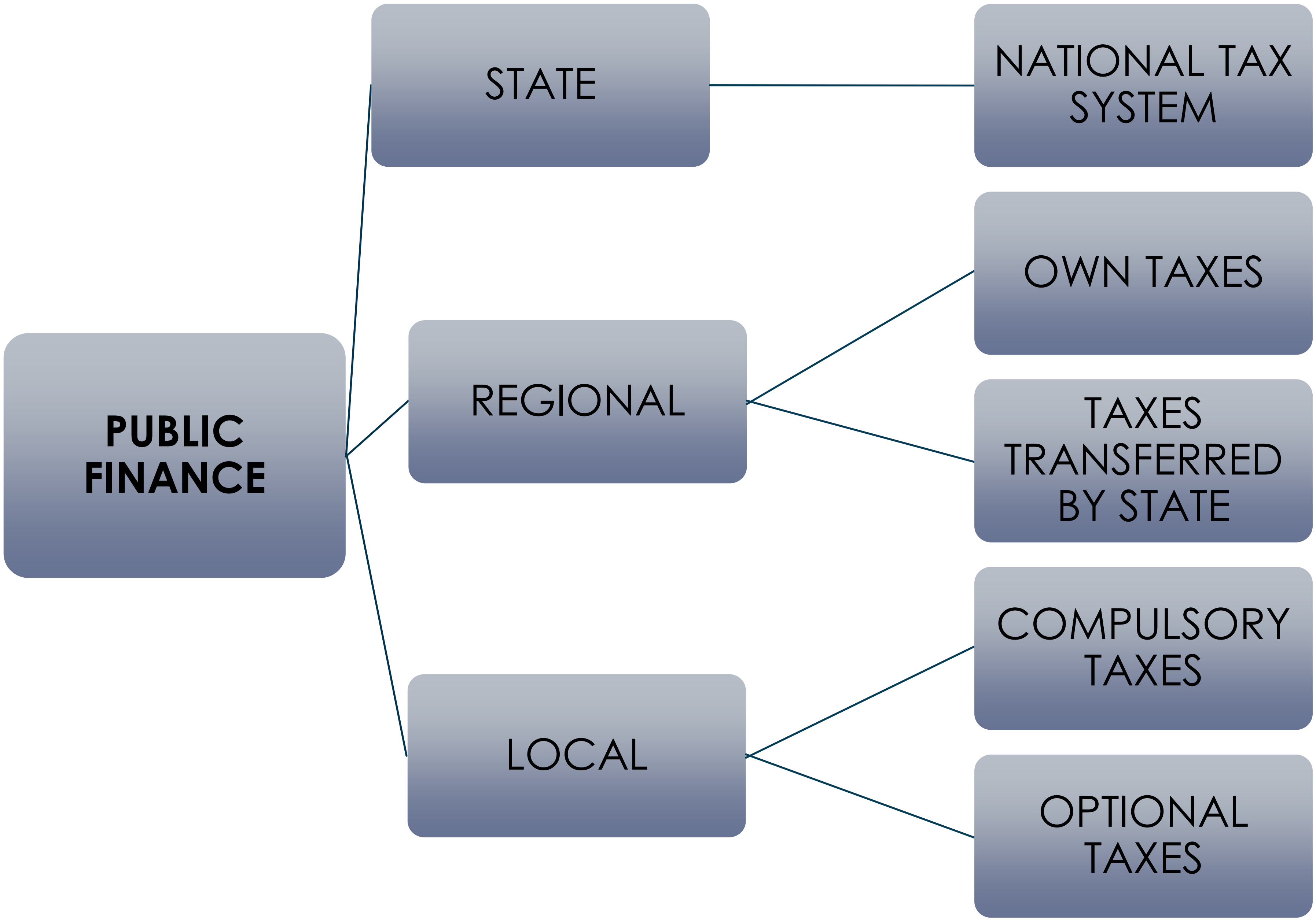
- - Legal categories of taxes according to article 2, SGTL:
- a) true taxes (*impuestos*)
- b) dues and fees (*tasas*)
- c) special levies (*contribuciones especiales*)

FRAGMENTATION OF TAX POWER

- - TAX POWER: set of constitutional and administrative powers held by local and regional authorities to establish a system of revenue and expenditure.
- - Territorial division: state, regions, and local entities
- - The tax power of each of these entities has a different dimension:
- I. State and regions have in common the existence of legislative power, which local entities lack.
- II. The state has no limits other than those established in the constitution, whereas the regions must consider the constitutional limits, LOFCA (Regional Finance Act), and regional statutes.

Spanish Tax System (except for Basque Country and Navarra regions and the exceptions applicable in the Canary Islands and Ceuta-Melilla)

STATE	Taxes	Direct	Income
			Heritage
		Indirect	Juridical fines
			Others
	Collection fees		
	Special contributions		
REGIONS	Taxes	Own	
		State assigned (50% or 100%)	
	Collection fees		
	Special contributions		
LOCAL	Taxes		
	Collection fees		
	Special contributions		


PUBLIC FINANCE
STATE
REGIONAL
LOCAL
NATIONAL TAX SYSTEM
OWN TAXES
TAXES TRANSFERRED BY STATE
COMPULSORY TAXES
OPTIONAL TAXES

DIRECT TAXES

- **Personal income tax:**

  Act 35/2006 of 28 November; and RD 439/2007 of 30 November.

  It taxes the income earned by individuals residing in Spain.
- **Income tax for non-residents:**

  Royal Legislative Decree 5/2004 of 5 March; and RD 1776/2004 of 30 July.

  Tax levied on the income earned in Spain by individuals and entities not resident in Spain.
- **Corporate income tax:**

  Act 27/2014 of 27 November; and RD 634/2015 of 10 July. Tax levied on income earned from activities conducted by entities classified as taxpayers.
- **Inheritance and gift tax:**

  Act 29/1987 of 18 December; and RD 1629/1991 of 8 November.

  Tax applied to individuals who acquire goods and rights free of charge, as well as to amounts received from life insurance (with certain exceptions). It covers both gratuitous acquisitions *'mortis causa'* and acquisitions *'inter vivos'*.
- **Wealth tax:**

  Act 19/1991, of 6 June; and RD 1704/1999 of 5 November

  It taxes the net worth of individuals.

INDIRECT TAXES

- **Value added tax:**
  - Act 37/1992 of 28 December; and RD 1624/1992 of 29 December
  - VAT tax on consumption

- **Transfer tax and stamp duty:**

  Legislative RD 1/1993 of 24 September; and RD 828/1995 of 29 May

  This tax has three modalities: onerous property transfers; business operations; and stamp duty.

- **Customs income:**
  - Since the Customs Union is an exclusive competence of the European Union, as established in Article 3(a) of the Treaty on the Functioning of the European Union, only EU law is applicable.
  - Since 1 May 2016, the procedure for decision-making in customs matters has been regulated by Regulation (EU) No. 952/2013 of the European Parliament and of the Council of 9 October 2013, which establishes the Customs Code of the Union (consolidation). Specifically, Section 3 of Chapter 2 of Title I, titled 'Decisions Relating to the Application of Customs Legislation,' outlines the general principles of the new procedure.
  - It contains the general provisions and procedures applicable to goods entering or leaving the customs territory of the European Union.

INDIRECT TAXES

- **Special taxes:**
  - Act 38/1992 of 28 December; and RD 1165/1995 of 7 July
  - Manufacturing special taxes:
    - Tax on beer
    - Tax on wine and fermented beverages
    - Tax on intermediate products
    - Taxes on alcohol and alcoholic beverages
    - Tax on hydrocarbons
    - Tax on tobacco products
    - Tax on electricity
  - Special tax on certain means of transport
  - Special tax on coal

- **Tax on insurance premiums:**
  - Article 12, Act 13/1996 of 30 December
  - Indirect tax levied on insurance and capitalization operations

OTHER TAXES

- Tax on fluorinated greenhouse gases (Act 16/2013 of 29 October which establishes certain measures regarding environmental taxation and adopts other tax and financial measures. Also, Royal Decree 1042/2013 of 27 December, approving the tax regulations on fluorinated greenhouse gases)
- Tax on the Value of the Extraction of Gas, Oil, and Condensates (Act 8/2015 of 21 May which modifies Act 34/1998 of 7 October on hydrocarbons, and which regulates certain tax and non-tax measures in relation to the research on and exploitation of hydrocarbons).
- Tax on the storage of spent nuclear fuel and radioactive waste in centralized facilities (Act 15/2012 of 27 December on fiscal measures for energy sustainability)
- Tax on deposits in credit institutions (Act 16/2012 of 27 December which approves various tax measures aimed at consolidating public finances and promoting economic activity: article 19)
- Tax on the production of spent nuclear fuel and radioactive waste from the generation of nuclear power (Act 15/2012 of 27 December on fiscal measures for energy sustainability)
- Tax on the value of the production of electrical energy (Act 15/2012 of 27 December on fiscal measures for energy sustainability)
- Tax on retail sales of certain hydrocarbons (Act 24/2001 of 31 December on fiscal, administrative, and social order measures: article 9)

ACTS APPROVED IN 2020

- Act 4/2020 of 15 October on **TAX ON CERTAIN DIGITAL SERVICES** (Google rate, digital rate):
  - Applies to companies with total annual revenues of at least €750m and with revenues in Spain of more than €3m.
  - The taxable base will generally be calculated based on 'the amount of income, excluding value added tax or other equivalent taxes, obtained by the taxpayer for each of the digital service provisions subject to tax, carried out in the territory of application of the same'.
  - The tax rate is 3%.
- Act 5/2020 of 15 October on the **TAX ON FINANCIAL TRANSACTIONS** (Tobin tax, Robin Hood tax):
  - This is a tax levied at 0.2% on purchase operations of Spanish shares in listed companies with a market capitalization of more than one billion euros.

ACTS APPROVED IN 2021

- **Act 11/2021 of 9 July on measures to prevent and combat tax fraud** transposing Directive (EU) 2016/1164 of the Council of 12 July 2016 - which establishes rules against tax avoidance practices that directly affect the functioning of the internal market, modification of various tax regulations, and gambling regulation.
    - Introduces modifications in the main taxes as well as in the Spanish General Tax Act

REGIONS

- The tax systems of the regions in the general regime and those regions in special regimes have their origins in the Spanish Constitution. Therefore, they are connected to a greater or lesser extent within the Spanish tax system of 1977-78.

- The regions have legislative power to create taxes and have established, among others, the following taxes:
  - Tax on activities that affect the environment (Valencia)
  - Tax on the disposal, incineration, co-incineration, and energy recovery of waste (Valencia)
  - Tax on large commercial establishments
  - Tax on stays in tourist establishments (Catalonia STC 125/2021, 3 June: constitutional)
  - Tax on radiotoxic elements (Catalonia, STC 43/2019: unconstitutional for violating 6.2 LOFCA by taxing the same as the state tax on the production of nuclear fuel).
  - Tax on the emission of nitrogen oxides into the atmosphere produced by commercial aviation
  - Tax on empty houses (Catalonia, SSTC 4/2019 and 43/2019: constitutional); (Valencia, Act 3/2020, applicable from 1/1/2021)
  - Tax on packaged sugary drinks
  - Tax on underutilized land (STC 37/1987)
  - Tax on customer deposits in banking entities (STC 210/2012; STC 26/2015)

LOCAL TAXES

Royal Legislative Decree 2/2004 of 5 March approving consolidated text of the act regulating local finance:

- ✓ Real estate tax
- ✓ Tax on economic activities
- ✓ Tax on motor vehicles
- ✓ Tax on buildings, installations, and works
- ✓ Tax on the increase in the value of urban land (*plusval*)

OTHER TAX SYSTEMS: EU RESOURCES

- The EU budget is almost entirely financed (99%) by its own resources.
- Income:
  - Customs duties, agricultural duties, and tax on sugar and isoglucose
  - Percentage of VAT collected by the state members
  - Percentage of the GNP of the EM
  - Tax on wages paid to EU officials
  - Fines, etc.