UNIT 1.
LOCAL TAXES

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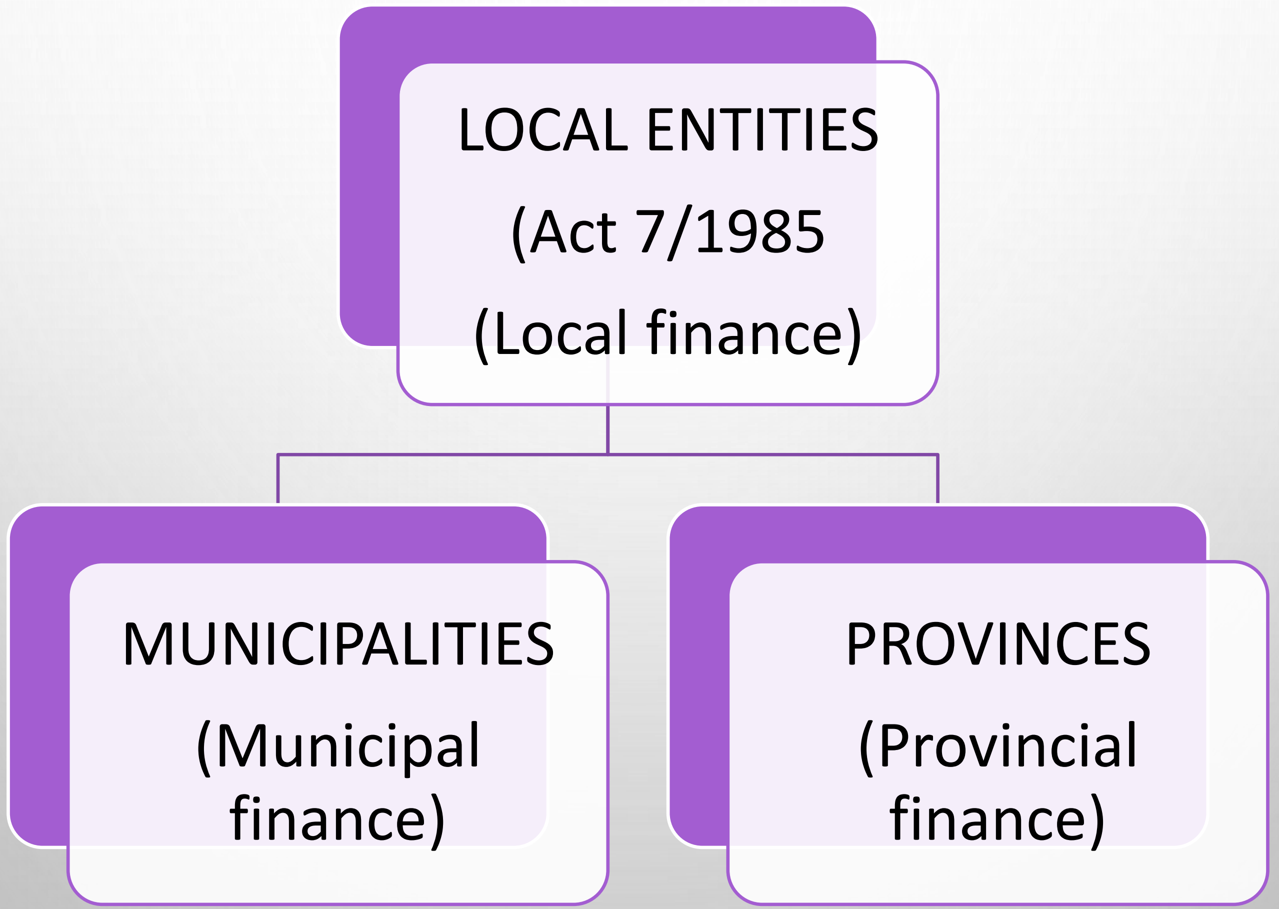
1. LOCAL FINANCE

- LOCAL FINANCE LEGAL SYSTEM:
  - ARTICLE 142 OF THE SPANISH CONSTITUTION
  - THE LOCAL REGIME BASES ACT (ACT 7/85)
  - ROYAL LEGISLATIVE DECREE 2/2004 OF 5 MARCH, APPROVING THE CONSOLIDATED TEXT OF THE ACT REGULATING LOCAL FINANCE (RDL 2/2004)
  - IMPORTANT EXEMPTIONS ARE CONTEMPLATED IN ACT 49/2002 OF 23 DECEMBER ON THE TAX SYSTEM OF NON-PROFIT ENTITIES AND TAX INCENTIVES FOR PATRONAGE
  - LOCAL TAX ORDINANCES.

1. LOCAL FINANCE



1. LOCAL FINANCE

- LOCAL CORPORATION RESOURCES (article 2, LRLF: GENERAL)

1. PRIVATE LAW REVENUE
2. LOCAL TAXES
3. PARTICIPATION IN STATE REVENUE
4. PARTICIPATION IN REGIONAL REVENUE
5. SUBSIDIES
6. PUBLIC PRICES
7. CREDIT OPERATIONS
8. FINES AND PENALTIES
9. PROPERTY AND TRANSPORT BENEFITS
10. CHARGES

1. LOCAL FINANCE

- RESOURCES OF MUNICIPALITIES (ARTICLES 130-131, LRLF)

1. PRIVATE LAW REVENUE
2. LOCAL TAXES: taxes, fees (services within its competence/municipal public domain), special levies (municipal services)
3. PARTICIPATION IN STATE REVENUE
4. PARTICIPATION IN REGIONAL REVENUE
5. SUBSIDIES
6. PUBLIC PRICES FOR ACTIVITIES UNDER THE COMPETENCE OF MUNICIPALITIES
7. CREDIT OPERATIONS
8. FINES AND PENALTIES
9. PROPERTY AND TRANSPORT BENEFITS
10. CHARGES

1. LOCAL FINANCE

- PROVINCIAL RESOURCES (ARTICLE 56, LRLF)

1. PRIVATE LAW REVENUE
2. LOCAL TAXES: fees (services of local competence/provincial public domain) and special contributions (provincial services). NO taxes of their own (provincial T.E.A. quota)
3. PARTICIPATION IN STATE REVENUE
4. PARTICIPATION IN REGIONAL REVENUE
5. SUBSIDIES
6. PUBLIC PRICES FOR ACTIVITIES UNDER PROVINCIAL CONTROL
7. CREDIT OPERATIONS
8. FINES AND PENALTIES
9. PROPERTY AND TRANSPORT BENEFITS
10. CHARGES (T.E.A.)

2. TAX POWER OF LOCAL CORPORATIONS

- LOCAL CORPORATIONS MAY ONLY IMPOSE TAXES BY DECIDING, THROUGH THE CORPORATION'S PLENARY TO APPLY IN THEIR TERRITORY TAXES ALREADY CREATED AND DEFINED BY STATE OR REGIONAL LEGISLATION. ADDITIONALLY, WHEN PERMITTED BY LAW, THEY MAY FURTHER REGULATE CERTAIN ESSENTIAL ELEMENTS - PRIMARILY TAX RATES.

- THIS AUTHORITY IS EXPLICITLY PROVIDED IN ARTICLE 106.1 OF ACT 7/1985 OF 2 APRIL ON THE BASES OF THE LOCAL REGIME, WHICH STATES: 'LOCAL ENTITIES SHALL HAVE THE AUTONOMY TO ESTABLISH AND COLLECT TAXES IN ACCORDANCE WITH THE PROVISIONS OF STATE REGULATORY LEGISLATION ON LOCAL TREASURIES AND THE LAWS ISSUED BY REGIONS , IN CASES EXPRESSLY PROVIDED FOR THEREIN.'

LOCAL TAXES

- **MANDATORY:** A REGULATORY ORDINANCE IS NOT REQUIRED, AND STATE LAW IS APPLICABLE. AN ORDINANCE IS ONLY NECESSARY IF THE CITY COUNCIL EXERCISES ITS LEGAL AUTHORITY TO INCREASE THE TAX RATE OR TO ESTABLISH EXEMPTIONS. THESE TAXES INCLUDE:
  - REAL ESTATE TAX (IBI)
  - TAX ON ECONOMIC ACTIVITIES (IAE)
  - TAX ON MECHANICAL TRACTION VEHICLES (IVTM)

- OPTIONAL: IN THIS CASE, IT IS NECESSARY: THE AGREEMENT OF THE PLENARY OF THE CITY COUNCIL, IN WHICH THE DECISION TO ESTABLISH THE TAX IS ADOPTED AND THE REGULATORY ORDINANCE OF THE SAME. THESE ARE THE FOLLOWING:

- TAX ON CONSTRUCTION, INSTALLATIONS, AND WORKS (ICIO)
- TAX ON THE INCREASE IN VALUE OF URBAN LAND (IIVTNU, FORMERLY, LOCAL CAPITAL GAINS TAX)

BASIC CHARACTERISTICS OF LOCAL TAXES

- THEY ARE **REAL TAXES**: based on an objective element, regardless of the personal element of the tax relationship (TE).

- THEY ARE **OBJECTIVE TAXES**, in which the personal circumstances of the taxpayer are not considered when quantifying the tax debt.

  - However, the T.E.A. does accept a **certain subjectivity**, because although it is a local tax of a real nature that is levied on business, professional or artistic activities, it provides, as a tax incentive for the development of certain business activities, a reduction in tax liability of 75, 50, and 25 per 100, applicable, respectively, to the first three years (counted from the beginning of activity). In addition, this characteristic has been blurred by the possibility of establishing reductions (e.g., for disabled persons - IVTM; for housing in favour of certain heirs - article 108.4, IIVTNU; and for large families in the IBI).

BASIC CHARACTERISTICS OF LOCAL TAXES

- In the case of **mandatory taxes** (IBI, IAE, and IVTM), these are **CENSUS TAXES**, MANAGED THROUGH A REGISTER, ENROLLMENT, OR TAXPAYER CENSUS. THESE TAXES SERVE AS MORE THAN JUST A SOURCE OF LOCAL REVENUE; THEY FUNCTION AS TAX-REGISTRATION MECHANISMS THAT IMPACT OTHER TAXES, INCLUDING THOSE AT STATE LEVEL.

  - The state administration is responsible for creating these censuses, while the local corporation handles the tax management in the strict sense: collecting taxes based on the values, bases, and subjects established by the state.

3. TAX ON REAL ESTATE PROPERTY (articles 60 – 77 LRLF)

3. TAX ON REAL ESTATE PROPERTY

- A **DIRECT TAX ON WEALTH OR REAL ESTATE ASSETS**, AS IT TAXES OWNERSHIP OF REAL ESTATE, REGARDLESS OF ANY INCOME GENERATED (THE CONSTITUTIONAL COURT AFFIRMED ITS COMPATIBILITY WITH WEALTH TAX IN RULING 239/1999 OF 16 DECEMBER)

- IT IS A **REAL TAX**.

- IT IS AN **OBJECTIVE TAX**, AS IT DOES NOT CONSIDER THE PERSONAL CIRCUMSTANCES OF THE TAXPAYER WHEN DETERMINING THE TAX LIABILITY (WITH SOME EXCEPTIONS, SUCH AS OPTIONAL REDUCTION FOR LARGE FAMILIES).

- IT IS A **PERIODIC TAX**:
  - THE TAX PERIOD COINCIDES WITH THE CALENDAR YEAR.
  - IT ACCRUES ON 1 JANUARY OF EACH YEAR.

- IT IS **SETTLED THROUGH PAYMENT**.

3. TAX ON REAL ESTATE PROPERTY

- **ARTICLES 66 – 70 LRLF**

- THE **TAXABLE EVENT** INVOLVES THE OWNERSHIP OF THE FOLLOWING RIGHTS OVER URBAN, RUSTIC, OR REAL ESTATE WITH SPECIAL CHARACTERISTICS:
  - ADMINISTRATIVE CONCESSIONS ON REAL ESTATE OR ON PUBLIC SERVICES TO WHICH THEY ARE AFFECTED
  - REAL RIGHTS OF SURFACE
  - REAL RIGHTS OF USUFRUCT
  - PROPERTY RIGHTS

- **NON-TAXATION ASSUMPTIONS**: BASED ON PUBLIC AND FREE OF CHARGE NATURE OF ITS USE, EXCLUSIVITY, OR IMPOSSIBILITY OF THE USE OF THE PROPERTY, THERE IS CONFUSION BETWEEN ACTIVE SUBJECT AND TAXPAYER.

- **EXEMPTIONS**:
  - MANDATORY, OPTIONAL, REQUESTED
  - INCLUDING: ON THE ASSETS OF THE CATHOLIC CHURCH AND OTHER PLACES OF WORSHIP, AS WELL AS NON-PROFIT ENTITY ASSETS (EXCEPT THOSE WITH ECONOMIC ACTIVITIES LIABLE TO CORPORATE INCOME TAX).

3. TAX ON REAL ESTATE PROPERTY

- **TAXPAYERS**: THE OWNER AT THE DATE OF ACCRUAL OR WHO APPEARED IN THE LAND REGISTRY ON 1 JANUARY.

- **LIABILITY** (ARTICLES 64, LRLF AND 79, SGTL):

  - SUBSIDIARY (RIGHT OF AFFECTION): PURCHASERS OF PROPERTY SUBJECT TO THE PAYMENT OF THE TAX

  - SEVERAL: THE ENTITIES OF ARTICLE 35.4 SGTLM IN PROPORTION TO THEIR PARTICIPATION (IF THEY ARE REGISTERED AS SUCH ENTITIES IN THE LAND REGISTRY, OR IN EQUAL SHARES IF THEY ARE NOT REGISTERED)

3. TAX ON REAL ESTATE PROPERTY

- **TAXABLE BASE** IS CONSTITUTED BY THE CADASTRAL VALUE OF REAL ESTATE

  - REAL ESTATE LAND REGISTRY ACT (RLD 1/2004 OF 5 MARCH); MARKET VALUE LIMIT; PHASES: PRESENTATION OF VALUES, APPEAL

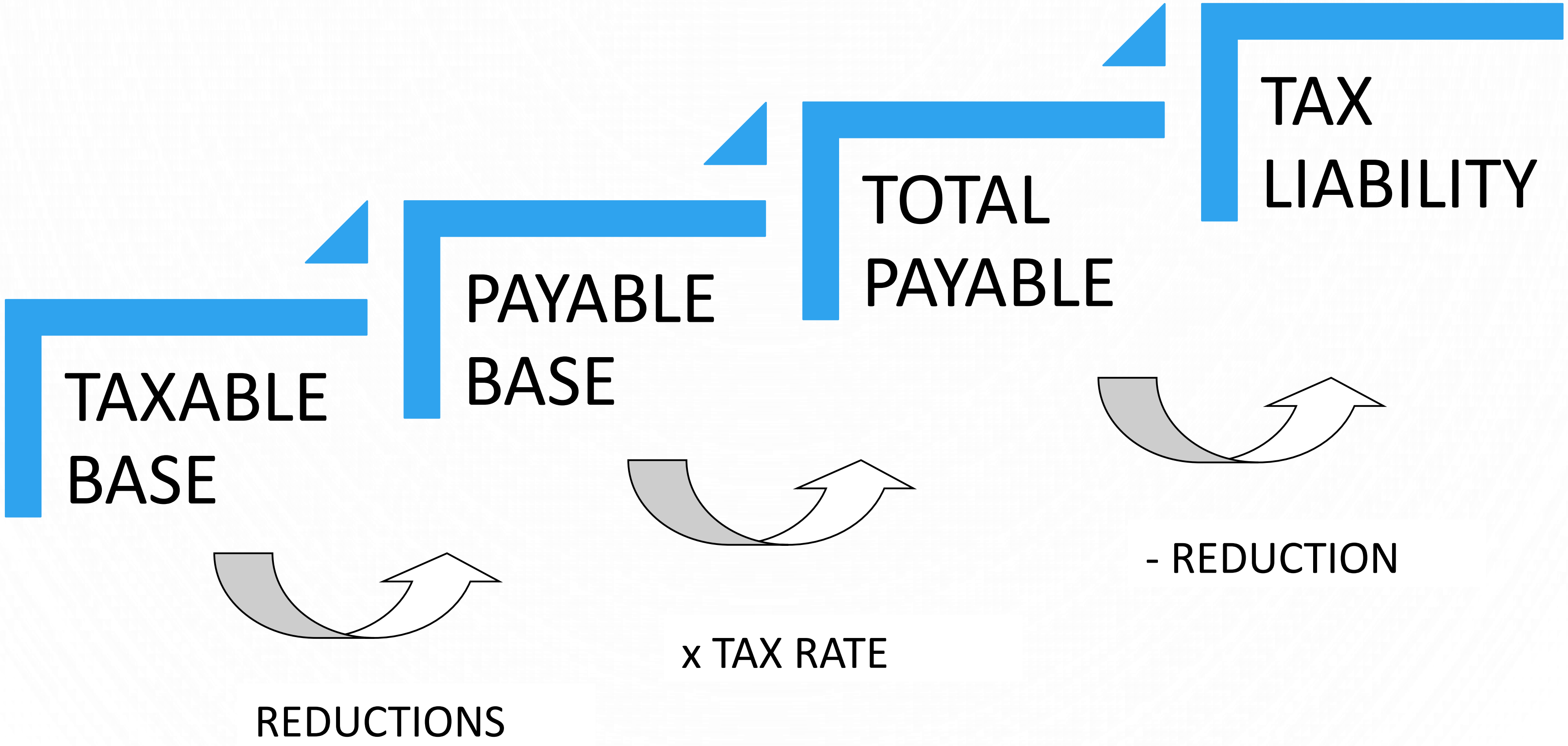
- THE **PAYABLE BASE** IS OBTAINED BY APPLYING REDUCTIONS TO THE TAXABLE BASE (BASIS: TO AVOID A SHARP INCREASE IN TAX LIABILITY).

- THE **TOTAL TAX PAYABLE** IS THE RESULT OF APPLYING THE TAX RATE TO THE PAYABLE BASE (minimum and maximum TRs are established, depending on the nature of the goods, among which the city council can set those to be applied to each class of goods).

- THE **TAX LIABILITY** IS OBTAINED BY REDUCING THE TOTAL PAYABLE BY THE AMOUNT OF THE LEGAL REDUCTIONS:
  1. general reduction of 50% for properties located in Ceuta and Melilla
  2. mandatory reduction with a rogatory character (OPH, agricultural cooperatives between 50 and 95%)
  3. optional reduction (large families, research centers, and universities)

3. TAX ON REAL ESTATE PROPERTY

IN SHORT…



4. TAX ON ECONOMIC ACTIVITIES (articles 78 – 91 LRLF)

4. TAX ON ECONOMIC ACTIVITIES

- IT IS A **DIRECT, REAL, OBJECTIVE, AND PERIODIC TAX** (PRORATION BY QUARTERS AND ACCRUAL 1-01), WHICH HAS A **DOUBLE FUNCTION**:
  - COLLECTION: SERVES AS A SOURCE OF FINANCING FOR THE LOCAL TREASURY
  - CONTROL: PROVIDES THE TAX AUTHORITY WITH A COMPREHENSIVE CENSUS OF TAXPAYER ACTIVITIES, WHICH IS USEFUL FOR OTHER TAXES (PIT, CIT, VAT)

- **TAXABLE EVENT:** THE SIMPLE EXERCISE IN SPAIN OF ANY BUSINESS, PROFESSIONAL, OR ARTISTIC ACTIVITY

- THE RATES (RDL 1175/1990) DIVIDE THE SUBJECT ACTIVITIES INTO THREE SECTIONS:
  - BUSINESS ACTIVITIES
  - PROFESSIONAL ACTIVITIES
  - ARTISTIC ACTIVITIES

ROYAL LEGISLATIVE DECREE 1175/1990: EXAMPLE OF SECTION, DIVISION, AND GROUP

SECOND SECTION

PROFESSIONAL ACTIVITIES

DIVISION 7. PROFESSIONALS RELATED TO FINANCIAL, LEGAL, INSURANCE AND RENTAL ACTIVITIES

GROUP 73. LAW PROFESSIONALS

- GROUP 731. LAWYERS
  - TAX LIABILITY: 42,900 PESETAS
- GROUP 732. ATTORNEYS
  - TAX LIABILITY: 34,300 PESETAS
- GROUP 733. NOTARIES
  - TAX LIABILITY: 120,000 PESETAS
- GROUP 734. LAND REGISTRARS
  - TAX LIABILITY: 120,000 PESETAS

4. TAX ON ECONOMIC ACTIVITIES

EXEMPTIONS: IN ADDITION TO THE CLASSIC SUBJECTIVE EXEMPTIONS (STATE, ACS, LT, SS, TAX AUTHORITIES, ETC.) AND FOR PATRONAGE (ECONOMIC OPERATIONS CARRIED OUT BY NON-PROFIT ENTITIES ARE EXEMPT WHEN THEY HAVE BEEN CLASSIFIED AS EXEMPT BY LAW):

TWO PERMANENT AND ONE TEMPORARY EXEMPTION ARE ESTABLISHED, WHICH RESULT IN THE ELIMINATION OF THE TAX FOR A SIGNIFICANT NUMBER OF TAXPAYERS:

- PERMANENT EXEMPTION FOR ALL NATURAL PERSONS
- PERMANENT EXEMPTION FOR COMPANIES WITH A NET TURNOVER OF LESS THAN ONE MILLION EUROS (INCLUDING ALL THE ACTIVITIES OF THE ENTITY):
  - IF IT IS PART OF A GROUP OF COMPANIES, ALL ACTIVITIES OF ALL THE COMPANIES IN THE GROUP
  - FOR NON-RESIDENTS OPERATING THROUGH A PERMANENT ESTABLISHMENT, ALL ACTIVITIES OF ALL ESTABLISHMENTS IN SPAIN

- TEMPORARY EXEMPTION FOR THE FIRST TWO TAX PERIODS APPLICABLE TO ALL TAXPAYERS WHO START THEIR ACTIVITY IN SPAIN
- **NON-TAXATION ASSUMPTIONS**: SPECIFIC CIRCUMSTANCES

4. TAX ON ECONOMIC ACTIVITIES

- **TAXPAYERS:** INDIVIDUALS, LEGAL ENTITIES, OR EWP (35.4 LGT) WHO CARRY OUT ECONOMIC ACTIVITIES AND ARE REGISTERED IN THE REGISTER AS OWNERS OF THE ACTIVITY (registration does not entitle the exercise of the activity).

- IT IS A **FIXED TAX LIABILITY**: THE AMOUNT OF THE TOTAL PAYABLE IS APPLIED WITH A WEIGHTING COEFFICIENT.

- THE **DETERMINATION OF THE TAX LIABILITY** DIFFERS DEPENDING ON THE QUOTA: MUNICIPAL, PROVINCIAL, AND NATIONAL.

- IN SOME CASES, THERE MAY BE MORE THAN ONE TYPE OF QUOTA ESTABLISHED BY THE REGULATIONS, AND IN WHICH CASE, THE OPPORTUNITY IS OFFERED TO OPT FOR THE MOST CONVENIENT OPTION.

4. TAX ON ECONOMIC ACTIVITIES (T.E.A.) (IAE IN SPANISH)

IN TAX MANAGEMENT, WE MUST DISTINGUISH:

- **CENSUS MANAGEMENT FUNCTIONS**: CORRESPOND TO THE STATE AND ARE SYNTHESIZED IN THE FORMATION OF TAXPAYER REGISTRATION, WHICH IS A CENSUS OF TAXED ACTIVITIES, TAXPAYERS, AND QUOTAS (THAT IS, QUALIFICATION OF ACTIVITIES AND ALLOCATION OF QUOTAS). FOR SUCH PURPOSES, TAXPAYERS MUST SUBMIT THE CENSUS DECLARATION OF REGISTRATION IN THE ACTIVITY BEFORE STARTING, AS WELL AS CENSUS DECLARATIONS OF VARIATION, MODIFICATION, OR CANCELLATION DUE TO PHYSICAL, ECONOMIC, AND LEGAL CHANGES IN THE ACTIVITY.
  - REGISTRATION, MODIFICATION, AND/OR CESSATION IN THE BUSINESS CENSUS: FORM 036
  - REGISTRATION, MODIFICATION, AND/OR CESSATION: FORM 840
    - THE EXEMPT ARE EXONERATED FROM PRESENTING THIS MODEL.
  - COMMUNICATION OF ANNUAL TURNOVER: FORM 848
    - MANDATORY FOR ALL SUBJECTS WHOSE ANNUAL TURNOVER IS RELEVANT FOR THE DETERMINATION OF T.E.A. TAX LIABILITY. TAXPAYERS WHO COMMUNICATE ANNUAL TURNOVER THROUGH OTHER TAX MODELS, FOR EXAMPLE, THE CORPORATE INCOME TAX RETURN, ARE EXEMPT.

- **TAX MANAGEMENT FUNCTIONS**: CITY COUNCILS ARE RESPONSIBLE FOR THE LIQUIDATION AND COLLECTION ACTIONS OF THE T.E.A. HOWEVER, THE TAX MAY BE PAYABLE IN A SELF-ASSESSMENT REGIME.

5. TAX ON MECHANICAL TRACTION VEHICLES (articles 92-99, LRLF)

5. TAX ON MECHANICAL TRACTION VEHICLES

- **DIRECT, REAL, OBJECTIVE, AND PERIODIC** (ACCRUAL ON 1 JANUARY, POSSIBILITY OF PRORATION BY QUARTERS IN CASE OF:
  1. FIRST ACQUISITION OF VEHICLE
  2. WHEN THE VEHICLE IS PERMANENTLY DEREGISTERED
  3. WHEN IT IS TEMPORARILY DEREGISTERED DUE TO THEFT

- THE **TAXABLE EVENT** IS OWNERSHIP OF MECHANICAL TRACTION VEHICLES SUITABLE FOR DRIVING ON PUBLIC ROADS.

- **NON-TAXATION ASSUMPTIONS**: HISTORIC VEHICLES AUTHORIZED TO BE DRIVEN EXCEPTIONALLY IN EXHIBITIONS, COMPETITIONS, OR RACES.

- **EXEMPTIONS:**

  - AUTOMATIC: OFFICIAL VEHICLES OF PUBLIC ENTITIES, DIPLOMATS, AMBULANCE, AND PUBLIC TRANSPORT

  - ON REQUEST: REDUCED MOBILITY VEHICLES =+ 33%- FOR EXCLUSIVE USE AND CERTAIN AGRICULTURAL VEHICLES

5. TAX ON MECHANICAL TRACTION VEHICLES

- **TAXPAYERS** ARE THE NATURAL PERSONS AND ENTITIES (AND ENTITIES WITHOUT LEGAL PERSONALITY UNDER ARTICLE 35 GENERAL TAX LAW) IN THE NAME OF WHOM THE VEHICLE APPEARS IN THE CIRCULATION PERMIT OR VEHICLE LOGBOOK.

  - THE TAX MUST BE PAID TO THE CITY HALL WHERE, IN ACCORDANCE WITH THE CIRCULATION PERMIT, THE TAXPAYER IS REGISTERED.

- **FIXED TAX LIABILITY:** LINKED TO ENGINE POWER

- CURRENTLY, **MODIFYING THESE CRITERIA IS BEING CONSIDERED** TO LINK TAX LIABILITY TO EMISSIONS OF CO^2 PARTICLES.

- **REDUCTIONS FOR**:

  - 50% FOR CEUTA AND MELILLA

  - OPTIONAL:

  1. up to 75% depending on type of fuel used

  2. up to 75% depending on characteristics of vehicle engine and its impact on the environment

  3. up to 100% for historic vehicles or those that are at least 25 years old

TAX CALCULATION

Valencia City Council	Less than 8 FHP	From 8 to 11.99 FHP	From 12 to 15.99 FHP	From 16 to 19.99 FHP	More than 20 FHP
Cars (*)	€22.53	€62.59	€134.98	€172.90	€219.09

(*) THERE ARE OTHER RATES FOR BUSES, TRUCKS, TRAILERS, AND MOTORCYCLES.

MUNICIPAL TAX ORDINANCES MAY REGULATE THE FOLLOWING REDUCTIONS:

- UP TO 75% DEPENDING ON THE TYPE OF FUEL CONSUMED AND ITS IMPACT ON THE ENVIRONMENT
- UP TO 75% DEPENDING ON THE CHARACTERISTICS OF THE VEHICLE ENGINE AND ITS IMPACT ON THE ENVIRONMENT
- UP TO 100% FOR HISTORIC VEHICLES OR VEHICLES THAT ARE AT LEAST 25 YEARS OLD

(*) VALENCIA CITY COUNCIL HAS ESTABLISHED CERTAIN TAX REDUCTIONS: 100% (MORE THAN 30 YEARS OLD); 75% BY ENGINE CLASS (ELECTRIC OR HYBRID); AND OTHER EXEMPTIONS (100% FOR PEOPLE WITH DISABILITIES EQUAL TO OR GREATER THAN 33%).

6. TAX ON FACILITIES, CONSTRUCTIONS, AND WORKS (articles 100-103, LRLF)

6. TAX ON FACILITIES, CONSTRUCTIONS, AND WORKS

- **REAL, OBJECTIVE, AND INSTANT** (when construction, installation, or work begins)
- THE **TAXABLE EVENT** IS THE EXECUTION, WITHIN THE MUNICIPAL TERM, OF CONSTRUCTIONS, INSTALLATIONS, AND WORKS FOR WHICH OBTAINING THE CORRESPONDING BUILDING OR URBAN PLANNING LICENSE IS REQUIRED, WHETHER OR NOT THIS LICENSE HAS BEEN OBTAINED, PROVIDED THAT ITS ISSUANCE CORRESPONDS TO THE TOWN HALL.
- **THE TAX IS COMPATIBLE** WITH:
  - THE FEE LEVIED ON GRANTING THE LICENSE
  - THE FEE FOR PRIVATE USE OR SPECIAL USE OF THE PUBLIC DOMAIN
  - VAT

6. TAX ON FACILITIES, CONSTRUCTIONS, AND WORKS

- **EXEMPTIONS:** CONSTRUCTION, INSTALLATION, OR WORK CARRIED OUT ON GOODS OWNED BY PUBLIC ENTITIES, THE CATHOLIC CHURCH, OR FOR CERTAIN CULTURAL OR SPORTING EVENTS.

- **TAXPAYERS**: INDIVIDUALS, LEGAL ENTITIES OR EWP (ARTICLE 35.4 SGTL), WHO ARE OWNERS OF THE CONSTRUCTION, INSTALLATION, OR WORK, WHETHER OR NOT THEY COINCIDE WITH THE OWNER OR NOT OF THE PROPERTY (SPECIFICALLY, THE PERSON WHO PAYS THE COSTS).

- **SUBSTITUTE FOR THE TAXPAYER**: WHOEVER APPLIES FOR THE LICENSE OR WHOEVER CARRIES OUT THE CONSTRUCTION, INSTALLATION OR WORK (POSSIBILITY OF OBTAINING COMPENSATION WITH ECONOMIC REPERCUSSIONS, BUT NO LEGAL REPERCUSSION).

6. TAX ON FACILITIES, CONSTRUCTIONS, AND WORKS

- **TAXABLE BASE:** REAL AND EFFECTIVE COST (EXCLUDING: VAT, FEES, ETC.)
- **TAX RATE:** MAXIMUM 4%
- **TOTAL PAYABLE:** TB X TR
- **REDUCTIONS:**

- 50% FOR CEUTA AND MELILLA

- OPTIONAL (ITS ESTABLISHMENT AND CUMULATIVE NATURE):

1. up to 95% for ciw declared of special interest for concurring social, cultural, historical-artistic or promotional circumstances
2. up to 95% for ciw that uses systems for the use of solar energy
3. up to 50% for ciw linked to plans for the promotion of private investment in infrastructure
4. up to 50% for ciw related to subsidised housing
5. up to 90% for ciw favouring habitability for the disabled

- **OPTIONAL DEDUCTION**: amount paid for granting urban planning license (the amount due and fee)

7. TAX ON THE INCREASE IN VALUE OF URBAN LAND
(articles 104-110, LRLF)

7. TAX ON INCREASE IN VALUE OF URBAN LAND

- IT IS A **DIRECT, REAL, OBJECTIVE,** AND **INSTANTANEOUS** TAX.

- THE **TAXABLE EVENT** IS THE **INCREASE IN VALUE** EXPERIENCED BY URBAN LAND THAT IS REVEALED ON:
  - A TRANSFER OF OWNERSHIP
  - CONSTITUTION OR TRANSMISSION OF ANY REAL RIGHT OF ENJOYMENT, LIMITING OWNERSHIP, OVER THE LAND

- **NON-TAXATION ASSUMPTIONS**:
  - INCREASES IN VALUE EXPERIENCED BY LAND THAT IS CONSIDERED RUSTIC, OR FOR SPECIAL PURPOSES
  - INCREASES IN THE VALUE OF URBAN LAND THAT ARE REVEALED BY: CONTRIBUTIONS OF ASSETS AND RIGHTS MADE BY SPOUSES TO THE MARITAL PARTNERSHIP; TRANSFERS OF REAL ESTATE BETWEEN SPOUSES OR IN FAVOR OF CHILDREN IN CASE OF DIVORCE, SEPARATION, OR ANNULMENT, REGARDLESS OF THE MATRIMONIAL PROPERTY REGIME; TRANSFERS OF REAL ESTATE TO THE STATE BANK SAREB (AD 8TH ACT 26/2013)
  - ALLOCATIONS TO HOUSING COOPERATIVE MEMBERS

7. TAX ON INCREASE IN VALUE OF URBAN LAND

- **EXEMPTIONS:**

  1. <u>OBJECTIVE</u>:

  - CONSTITUTION AND TRANSFER OF EASEMENT RIGHTS

  - TRANSFERS OF HISTORIC AND ARTISTIC HERITAGE ASSETS OR ASSETS DECLARED TO BE OF CULTURAL INTEREST, WHEN CONSERVATION, IMPROVEMENT, OR REHABILITATION IS ACCREDITED

  2. <u>SUBJECTIVE</u>: PUBLIC ENTITIES, NON-PROFIT ENTITIES, RED CROSS, CATHOLIC CHURCH, ETC.

- **TAXPAYERS:**

  - WHEN THE TRANSFER IS <u>FOR FREE</u>, THE TAXABLE PERSON IS THE ACQUIRER OF THE GOOD OR RIGHT.

  - WHEN THE TRANSFER IS FOR <u>VALUABLE CONSIDERATION</u>, THE TAXPAYER IS THE TRANSFEROR.

  - WHEN THE TRANSFEROR DOES NOT RESIDE IN SPAIN, <u>THE ADQUIRER IS CONSIDERED AS A SUBSTITUTE FOR THE TAXPAYER</u>.

- <u>NON-AVAILABILITY OF THE TAX LIABILITY</u> BY AGREEMENT

7. TAX ON INCREASE IN VALUE OF URBAN LAND

- THE **TAXABLE BASE** WAS CALCULATED FROM THE CADASTRAL VALUE OF THE LAND AT THE TIME OF ACCRUAL WITH THE APPLICATION OF AN ANNUAL PERCENTAGE APPROVED BY MUNICIPALITIES.
- THIS SYSTEM DETERMINED, ON OCCASIONS, TAXATION OF REAL PATRIMONIAL LOSSES, WHICH CAUSED **IMPORTANT CASE LAW**:
    - RCC 59/2017: DECLARES ARTICLES 107.1 AND 107.2 OF THE LRLF UNCONSTITUTIONAL, ONLY TO THE EXTENT THAT THEY SUBJECT INEXPRESSIVE SITUATIONS OF ECONOMIC CAPACITY TO TAXATION.
    - RCC 126/2019: CONFISCATORY
    - RSC 7/9/2018: IT IS UNCONSTITUTIONAL WHEN IT DOES NOT GENERATE CAPITAL GAINS; IT CAN BE DEMONSTRATED BY THE TAXPAYER TO ANY MEANS OF PROOF ADMITTED BY LAW (FUNDAMENTALLY EXPERT EVIDENCE). THE SC DOES NOT SUPPORT THE '**MAXIMALIST THEORY**'.
    - THE CONSTITUTIONAL COURT JUDGMENT 182/2021 OF 26 OCTOBER 2021, DECLARES THE NULLITY OF THE REGULATORY PRECEPTS OF THE TAX ON THE INCREASE IN VALUE OF URBAN LAND DUE TO IT ESTABLISHING AN OBJECTIVE SYSTEM AND OF IMPERATIVE APPLICATION FOR THE DETERMINATION OF THE TAXABLE BASE OF THE TAX.
- <u>RDL 26/2021, 8-XI</u> ESTABLISHED **NEW REGULATIONS FOR THIS TAX**. IN THIS WAY, IT IS INTENDED TO ADAPT THE TAX TO FLUCTUATIONS IN THE PRICE OF THE PROPERTY, IN ORDER TO RECOGNIZE REAL GAINS.

7. TAX ON INCREASE IN VALUE OF URBAN LAND

ROYAL LEGISLATIVE DECREE 26/2021 ESTABLISHES A **DOUBLE SYSTEM FOR DETERMINING THE BASE ON WHICH CAPITAL GAIN IS CALCULATED.** TAXPAYERS WILL BE ABLE TO CHOOSE THE OPTION THAT IS MOST BENEFICIAL TO THEIR SITUATION.

1. OBJECTIVE SYSTEM

FOR THE OBJECTIVE ESTIMATION, **THE COUNCIL HAS COEFFICIENTS** THAT ARE BASED ON THE TIME ELAPSED FROM THE ACQUISITION OF THE LAND TO ITS TRANSFER.

THE COEFFICIENTS **CONSIDER TERMS OF OWNERSHIP OF THE PROPERTY RANGING FROM LESS THAN ONE YEAR TO 20 OR MORE YEARS**. THE COEFFICIENTS INCREASE THE GREATER THE ELAPSED TIME. FOR EXAMPLE, FOR A PERIOD OF LESS THAN ONE YEAR, A COEFFICIENT OF 0.14 CORRESPONDS. IF IT IS 20 OR MORE YEARS OLD, THE COEFFICIENT IS 0.45.

HOW IS THIS COEFFICIENT USED?

THE CADASTRAL VALUE OF THE LAND AT THE TIME OF TRANSFER IS MULTIPLIED BY THE CORRESPONDING COEFFICIENT. COEFFICIENTS ARE UPDATED ANNUALLY, DEPENDING ON THE EVOLUTION OF THE REAL ESTATE MARKET.

7. TAX ON INCREASE IN VALUE OF URBAN LAND

2. DIRECT ESTIMATE

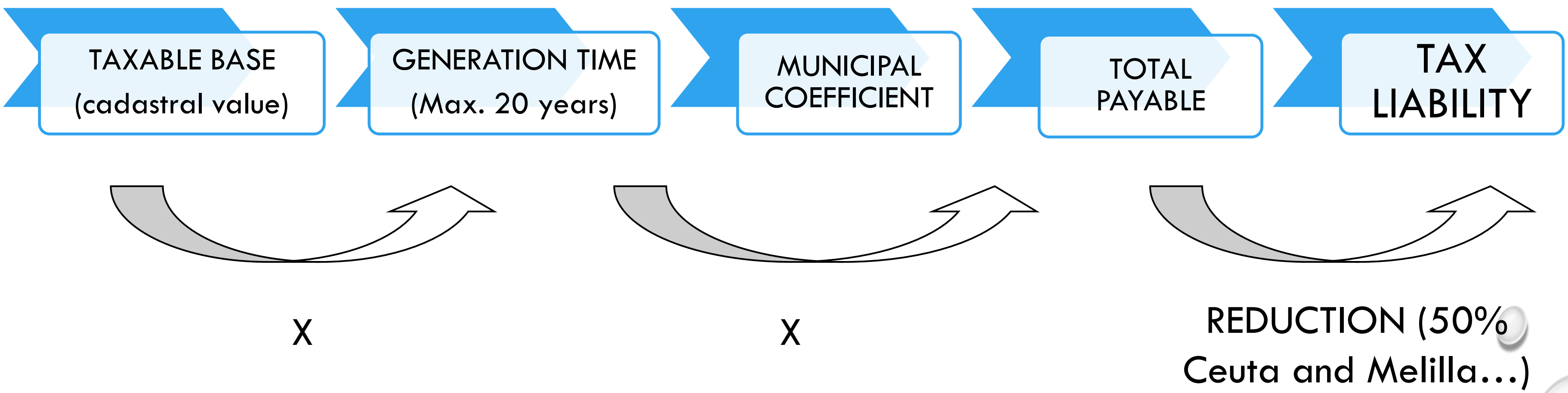
THIS WAY OF CALCULATING TAXABLE VALUE CONSISTS OF **COMPARING THE PURCHASE VALUE AND THE SALE VALUE OF THE PROPERTY**. THE LAW UNDERSTANDS THAT IN THIS WAY THE REAL PROFIT CAN BE DETERMINED.

IF THE VALUE OBTAINED BY THIS METHOD IS LOWER THAN THE ONE RESULTING FROM THE OBJECTIVE ESTIMATE, THIS CALCULATION CAN BE USED AS A BASIS. IN OTHER WORDS, **THE ESTIMATION OPTION THAT BEST SUITS THE TAXPAYER IS VALID.**

IN CALCULATING THE YEARS ELAPSED BETWEEN THE PURCHASE AND THE TRANSFER, FULL YEARS WILL BE CONSIDERED, WITHOUT CONSIDERING FRACTIONS. IF IT IS LESS THAN ONE YEAR, IT WILL BE CALCULATED PROPORTIONALLY ON THE NUMBER OF FULL MONTHS.

THE LAW GRANTS MUNICIPALITIES THE POWER TO APPLY A REDUCTION COEFFICIENT ON THE ESTIMATED VALUE THAT REFLECTS ITS UPDATE, WITH A MAXIMUM OF 15%.

7. TAX ON INCREASE IN VALUE OF URBAN LAND



7. TAX ON INCREASE IN VALUE OF URBAN LAND

- **TAX MANAGEMENT:**

1. DECLARATION (BY DEFAULT): ACCOMPANIED BY THE DOCUMENT STATING THE LEGAL BUSINESS THAT ORIGINATES THE TAX. DEADLINES: 30 DAYS (*INTER VIVOS*) OR 6 MONTHS (*MORTIS CAUSA*). IN THIS CASE, AN EXTENSION FOR THE SAME PERIOD IS POSSIBLE.

2. TAX RETURN MUST BE ESTABLISHED BY ORDINANCE. THIS SYSTEM CANNOT BE USED FOR LAND THAT HAS NOT BEEN ASSIGNED ITS CADASTRAL VALUE AT THE TIME OF TAX ACCRUAL.