



FAQs REGARDING THE TAX ON CERTAIN DIGITAL SERVICES (TCDS)

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Contents

FAQs REGARDING THE TAX ON CERTAIN DIGITAL SERVICES (TCDS)	1
1. CONCEPTS	4
1.1. What is a “digital interface”?	4
1.2. What is “digital content”?	4
2. TAXABLE EVENT	5
2.1 Are all data transmissions carried out by the entity that collected the data taxable or only the first data transmission? Are data transmissions carried out by entities that have not collected the data taxable?	5
3. LOCATION OF SERVICE	5
3.1. Means of evidence admissible for locating users.....	5
3.2. Location of users in underlying online intermediary services when they are not using the device at the time the underlying transaction is completed	6
4. TAXPAYER	6
4.1. Who has the status of taxpayer for the Tax on Certain Digital Services? What about for groups?	6
4.2. How is the threshold for the amount of digital services to be determined in 2021 when the tax did not exist in 2020? What about for groups?	7
4.3. What references to the thresholds must be taken into account to be considered obliged to file Form 490 in 2022 and subsequent years?	8
4.4. What does the incorporation of the TCDS into the Economic Agreement with the Basque Country mean for certain taxpayers?	8
4.5. From when will taxpayers who pay tax to more than one administration have to fill in the new boxes relating to territory-specific taxation?	9
5. TAXABLE BASE	9
5.1. Taxable base calculation examples	9
a) Online advertising services	10
5.2. What exchange rate should be used to determine the taxable base for the tax?	12



5.3.	When must the taxpayer adjust the taxable base following the procedure referred to in Article 10.3 of Law 4/2020 of 15 October on the Tax on Certain Digital Services?	12
5.4.	Can the new territory-specific tax boxes in the “Adjustment (Art. 10.3 Law 4/2020)” section be completed when adjusting the quarters of financial year 2021 and the first quarter of 2022?	12
6.	TAX RETURN AND DEPOSIT	13
6.1.	Should I submit a tax register declaration if I am obliged to pay the TCDS?	13
6.2.	In 2021, if my net turnover in 2020 was more than 750 million euros and in a given quarter I exceeded the taxable digital services threshold in the specific manner provided for that year (question 4.2), but in the following quarter I did not exceed it, which TCDS-related returns do I have to file in both quarters?.....	13
6.3.	When do I have to submit the self-assessment and payment of the tax in 2021 and 2022?	14
6.4.	If from 2022 onwards I am obliged to file Form 490, which selfassessments must I file? And which tax register declarations?	15
6.5.	What returns must I file if in any quarterly settlement period there is no tax payable (tax equal to zero euros)?	16
6.6.	Who can file Form 490 for the taxpayer?	16
6.7.	How can I get power of attorney to file Form 490?	16
6.8.	What does shared tax reporting mean for the purposes of filing Form 490?	17
6.9.	When it comes to groups, who can file the returns of the various taxpayers?	17
6.10.	What documentation must be submitted by an entity wishing to sign a shared tax reporting agreement with the Tax Agency for the electronic filing of tax returns, communications and other tax documents on behalf of the group’s entities?	18
6.11.	When it comes to groups, is there any way to simplify the filing of returns for the various taxpayers in a group?	19
6.12.	Payment of tax debt by direct debit	19
6.13.	Payment of tax debt without direct debit	20
6.14.	If I do not have an account with an entity collaborating in Tax Administration collections, how can I pay the self-assessed tax debt on Form 490?	20
6.15.	Self-assessment resulting in payment and with request for deferral or instalment payment, compensation or acknowledgement of debt	21
7.	ISSUES RELATING TO THE IDENTIFICATION OF THOSE OBLIGED TO DECLARE THE TAX	21
7.1.	When filing Form 490 for self-assessment of the Tax on Certain Digital Services, how should a company or entity that is not resident in Spain identify itself to the tax authorities?	21
7.2.	What form has to be used to request a Spanish Tax Code (NIF)?	22
7.3.	What documentation must be provided by foreign legal persons or foreign entities without legal personality?	22



- 7.4. Is it possible to carry out the procedures for assigning a NIF at Spanish consulates and embassies abroad? 22
- 7.5. What information and documentation do I need to provide in order to apply for a NIF (beginning in N) for a foreign legal person or entity at the Spanish Consular Office abroad? 23
- 7.6. Once I have the NIF, can I file the self-assessment tax return (Form 490)? 24
- 7.7. Where can I find more information on the identification of non-resident entities? . 24



1. CONCEPTS

1.1. What is a “digital interface”?

Article 4.4 of the Tax Law defines digital interface as “any program, including websites or parts thereof; application, including mobile applications; or any other means accessible to users that enables digital communication”.

The following characteristics are inferred from this definition:

- The interface must allow digital communication.
- It is an open definition that includes examples for illustrative purposes.

Digital interfaces can be accessible through various types of device, such as a mobile phone, a computer, a television, a tablet, a household appliance or a vehicle.

For example, digital interfaces for the purposes of the Tax Law are those used through a television set to access digital content, whether pre-installed on the television set itself, downloaded or running on some other device connected to the television set (e.g. a game console or a set-top box).

1.2. What is “digital content”?

Article 4.1 of the Tax Law defines digital content as “data provided in digital format, such as computer programs, applications, music, videos, texts, games and any other software, other than data representative of the digital interface itself”.

The following characteristics are inferred from this definition:

- It refers to data supplied in a digital format other than the interface itself.
- It is an open definition that includes examples for illustrative purposes.

The supply of the data constituting the digital content may be by downloading, by streaming or by accessing the digital interface. Such supply can take place on a one-off basis, for a specific period of time or in perpetuity.

Digital content must be supplied through a digital interface. Therefore, data supplied on physical media, such as CDs, DVDs or USB memory sticks (flash drives), are not digital content. The fact that these physical media are transmitted via a digital interface does not make the data in question digital content, without prejudice to the possible provision of an online intermediary service.



2. TAXABLE EVENT

[2.1](#) Are all data transmissions carried out by the entity that collected the data taxable or only the first data transmission? Are data transmissions carried out by entities that have not collected the data taxable?

Article 4.8 of the Tax Law defines data transmission services as “the transmission for payment, including sale or transfer, of user data produced by the activities carried out by users in digital interfaces”.

For its part, the Law’s Regulatory Impact Analysis Report points out that data in the digital economy are not exhausted in a single transaction, but rather allow the value generated by the company that initially collected them to multiply as they are transmitted.

Therefore, all data transmissions by the entity that collected the data will be subject to the tax, not just the first.

Similarly, all data transmissions carried out by entities that have not collected the data themselves, but instead have acquired them from the collecting entity or any other entity, will be subject to the tax.

3. LOCATION OF SERVICE

[3.1.](#) Means of evidence admissible for locating users.

In Article 7.4, the Tax Law establishes that the legal but rebuttable presumed location of the user’s device is the IP address. However, it may be concluded that the place is elsewhere, for which geolocation or any other means of evidence admissible in law may be used, save those excepted in Article 7.3 of the Tax Law, namely the place where the underlying delivery of goods or provision of services takes place, in cases of online intermediary services with underlying transactions, or the place from which any payment related to a digital service is made.

The geolocation tools that will be considered valid means of evidence are listed in Article 1 of Royal Decree 400/2021, of 8 June, implementing the rules for locating users’ devices and the formal obligations of the TCDS.

Other means of evidence that can be assessed are, for example:



- For online advertising services, online intermediary services without underlying transactions and data transmission services: data of the user viewing the advertisement according to their user profile, such as their registration address, the country code of the user's mobile phone number, or address information obtained from recurring data relating to the geolocation of their device.
- For underlying intermediary services, the above-mentioned means of evidence could be used to locate both the buyer's and the seller's device, and for the latter, the address where the seller is established if a legal entity.

3.2. Location of users in underlying online intermediary services when they are not using the device at the time the underlying transaction is completed

In cases of online underlying intermediary services where one of the users is not using the device at the time the transaction is completed, the location of that user's device at the time they entered their buy or sell order in the broker's digital interface shall be taken into account.

4. TAXPAYER

4.1. Who has the status of taxpayer for the Tax on Certain Digital Services? What about for groups?

In accordance with Article 8 of the Law, taxpayers are the legal persons and entities without legal personality referred to in Article 35.4 of Law 58/2003 of 17 December on General Taxation, whenever they exceed the following two thresholds on the first day of the settlement period:

- a) Net turnover in the previous calendar year exceeds 750 million euros; and
- b) total revenues derived from the supply of taxable digital services for the previous calendar year, after applying the rules provided in Article 10 of Law 4/2020 of 15 October on the Tax on Certain Digital Services, exceed 3 million euros.

When the activity has started in the immediately preceding year, the above amounts will be annualised.

In the **specific case of groups**, however, in quantifying the thresholds that determine taxpayer status, the net turnover and revenue amounts from taxable transactions at group level will be taken into account.

This does not mean that the taxpayer is the group; rather, each entity will continue to be considered individually.

If an entity that did not meet the thresholds in the previous year becomes part of a group in the current year that met the thresholds in the previous calendar year, it will not be



considered a taxpayer in the remaining settlement periods of the calendar year in which it became part of the group.

Thus, for example, an entity that in year X1 was not part of any group and did not meet the thresholds in that year will not be considered a taxpayer in the settlement periods of X2 even if on 5 January X2 it becomes part of a group that did meet the thresholds in X1.

Alternatively, if an entity was part of a group that met the thresholds in the previous calendar year and ceases to be part of the group in the current year, it will remain a taxpayer in the remaining settlement periods of the current calendar year even if individually it did not meet the thresholds in the previous calendar year.

Thus, for example, an entity that individually did not exceed the thresholds in year X1 but is part of a group that did exceed the thresholds will be considered a taxpayer for the settlement periods of X2 even if it ceases to be part of the group on 5 January X2.

4.2. How is the threshold for the amount of digital services to be determined in 2021 when the tax did not exist in 2020? What about for groups?

For the sole purpose of determining the total amount of digital services subject to tax (Article 8.1.b of Law 4/2020), the total amount of taxable digital services carried out from 16 January 2021 (entry into force of the Law) until the end of the quarterly settlement period in question will be taken into account, although these amounts will be annualised.

This results in:

Period	Total amount of taxable digital services	Total amount of taxable digital services (annualised)	Situation (*)	Result
16 January to 31 March 2021	A	E	E > €3 million	TCDS liability (Q1 2021)
			E ≤ €3 million	No TCDS liability (Q1 2021)
16 January to 30 June 2021	B	F	F > €3 million	TCDS liability (Q2 2021)
			F ≤ €3 million	No TCDS liability (Q2 2021)
16 January to 30 September 2021	C	G	G > €3 million	TCDS liability (Q3 2021)
			G ≤ €3 million	No TCDS liability (Q3 2021)
16 January to 31 December 2021	D	H	H > €3 million	TCDS liability (Q4 2021) TCDS liability 2022: Q1, Q2, Q3 and Q4)
			H ≤ €3 million	No TCDS liability (Q4 2021) No TCDS liability 2022 (Q1, Q2, Q3, Q4)

(*) Assuming turnover in 2020 exceeds 750 million euros



In the **specific case of groups**, in quantifying the thresholds that determine taxpayer status, the net turnover and revenue amounts from taxable transactions at group level will be taken into account.

For the purpose of calculating the threshold referred to in Article 8.1.b of the Law, the situation of the entity on the last day of the relevant settlement period (31 March, 30 June, 31 October and 31 December 2021) shall be taken into account. If on any of these dates the entity is part of a group, to calculate the threshold referred to in Article 8.1.b of the Law, all taxable services rendered by the entities forming part of the group must be taken into account, without excluding inter-group services.

Thus, if, for example, a company is part of a group on 31 March 2021, all the services provided by the entities forming part of the group since the entry into force of the Law shall be taken into account for the purpose of calculating the amount of taxable services for the year. Alternatively, if the same entity is no longer part of the group on 30 June 2021, only the services it has provided since the entry into force of the Law shall be taken into account for the purpose of calculating the amount of taxable services for the year.

Furthermore, as regards the threshold referred to in Article 8.1.a of the Law for the 2021 settlement periods, whether the entity was part of a group on 31 December 2020 should be examined. If so, the net turnover of the group as a whole shall be considered. If an entity was part of a group that met the thresholds in 2020 and in 2021 it ceases to be part of the group, the threshold in Article 8.a of the Law will still be deemed to be met for all settlement periods remaining in 2021.

[4.3. What references to the thresholds must be taken into account to be considered obliged to file Form 490 in 2022 and subsequent years?](#)

In this case, the references are those corresponding to the previous calendar year.

For 2022, for example, the references to the thresholds are those for 2021, both those relating to the annual turnover and those relating to digital services subject to tax, although in the latter case this is computed from 16 January 2021, the date of entry into force of Law 4/2020.

[4.4. What does the incorporation of the TCDS into the Economic Agreement with the Basque Country mean for certain taxpayers?](#)

Law 1/2022, of 8 February, amending Law 12/2002, of 23 May, approving the Economic Agreement with the Autonomous Community of the Basque Country, has incorporated the agreement of the Tax on Certain Digital Services approved by Law 4/2020, of 15 October, on the Tax on Certain Digital Services.

The Tax on Certain Digital Services is incorporated into the Economic Agreement with the Autonomous Community of the Basque Country through the new article 34 ter of the Agreement,



which establishes the applicable regulations, the levying and inspection of the tax, and specifically provides in its section One that it is an agreed tax which shall be governed by the same substantive and formal rules established at any time by government of Spain

In accordance with the levy criteria established in the aforementioned Article 34 ter of the Economic Agreement with the Autonomous Community of the Basque Country, taxpayers shall pay the tax, regardless of where their tax address is located, to the Provincial Councils, to the State Administration, or to both administrations, in proportion to the volume of digital services rendered in each territory.

Taxpayers who must pay tax to more than one administration shall complete the new boxes on Form 490 relating to taxation by territory (total tax payable to the State and, where applicable, its adjustment, as well as the percentages of taxation to each territory), created for the purpose of providing information on taxation in each of the provincial territories and in the common territory.

4.5. From when will taxpayers who pay tax to more than one administration have to fill in the new boxes relating to territory-specific taxation?

The new boxes relating to taxation by territory will be enabled to be completed by taxpayers who pay taxes to more than one administration (Álava, Guipúzcoa, Vizcaya and the State Administration) from the second quarter of 2022 (to be filed as from 1 July 2022).

5. TAXABLE BASE

5.1. Taxable base calculation examples.

a) Online advertising services

1. During the settlement period, Company A pays the owner of an interface (a taxpayer) €1,000 for an advertising campaign shown to 20,000 users, 5,000 of whom are in the territory where the tax applies, and €2,000 for an advertising campaign shown to 40,000 users, 20,000 of whom are in the territory where the tax applies.

$$TB = 1,000 \times \frac{5,000}{20,000} = 250$$

$$TB = 2,000 \times \frac{20,000}{40,000} = 1,000$$



2. During the settlement period, Company B carries out an advertising campaign aimed entirely at users located outside the territory where the tax applies. It pays the owner of an interface (a taxpayer) €500 and the campaign is shown to 1,000 users. Of these, 100 viewed the advert on their device while transferring through a Spanish airport.

$$TB = 500 \times \frac{100}{1000} = 50$$

3. During the settlement period, Company C, the owner of a taxable interface, received €2,000 from Company D, a company engaged in programmatic advertising auctions, for all the advertising it placed on its digital interface. This advertising was shown to 30,000 users, of whom 15,000 are located in the territory where the tax applies. Company D received €2,200 from the entities on whose platforms the advertisers manage the programmatic purchase of advertising inventory, taking €200 as its commission.

$$TB = 2,000 \times \frac{15,000}{30,000} = 1,000$$

The amount of the commission charged by Company D (€200) is not included in taxable base calculation because it was collected by an entity other than the taxpayer.

4. During the settlement period, Company E, an advertising service provider which contracts with a number of interface owners to include advertising in their interfaces, received €40,000 from Company F, which is engaged in holding programmatic advertising auctions, to include advertising in its digital interface. Company E transfers €36,000 to the owners of the interfaces, taking the remaining €4,000 as its commission. The adverts were shown 1,000,000 times on devices, of which 400,000 were in the territory where the tax applies. Company F received €42,000 from the entities on whose platforms advertisers manage the programmatic purchase of advertising inventory, taking €2,000 as its commission.

$$TB = 40,000 \times \frac{400,000}{1,000,000} = 16,000$$

The taxable base of the advertising service providers includes the total amount of the consideration received from those who acquire the advertising space.

b) Online intermediary services with underlying transactions

1. Company A runs a marketplace-type platform that invoices the sellers of goods 15% of the price agreed with customers. A seller located in the territory where the tax applies has sold a good for the price of €5,000 to another user also located in the territory where the tax applies.



$$TB = 5,000 \times 0.15 \times \frac{2}{2} = 750$$

Note that, in calculating the numerator and denominator, both buyers and sellers will be considered users.

Where the buyer is not located in the territory where the tax applies.

$$TB = 5,000 \times 0.15 \times \frac{1}{2} = 375$$

c) Online intermediary services without underlying transactions

1. Company A owns a social networking site which, in addition to financing itself by displaying advertisements to its users and transmitting their data, offers a premium version for a price of €30 per month. During the settlement period, a total of 10,000 accounts were opened, 1,000 of which were opened by users who were in the tax territory at the time of opening. Each of these 1,000 users paid the 3 monthly instalments during the settlement period.

$$TB = 1,000 \times 30 \times 3 = 90,000$$

d) Data transmission services

1. Company A has transferred to Company B the right to use data generated by users of digital interfaces during the settlement period and also during the year prior to the entry into force of the TCDS Law. The consideration for the assignment amounted to €50,000. The data referred to 120,000 users, of whom 30,000 were in the territory where the tax applies at the time the data was generated.

$$TB = 50,000 \times \frac{30,000}{120,000} = 12,500$$

Note that the time when the data was collected is irrelevant.

2. Company B in the example above has analysed the data provided by Company A and transmits it to Company C, attaching to its report the same data that it had acquired from Company A. The price received for preparing the report and transferring the data is €200,000. The value of the data transferred to Company C remains the same as when it was transferred to Company B.

$$TB = 50,000 \times \frac{30,000}{120,000} = 12,500$$



120,000

Please note that it does not matter whether the same data has previously been subject to a transmission liable for tax.

[5.2. What exchange rate should be used to determine the taxable base?](#)

If the amount of the taxable base is in a currency other than the euro, it shall be converted into euro at the exchange rate published in the latest available Official Journal of the European Union for the settlement period in question.

[5.3. When must the taxpayer adjust the taxable base following the procedure referred to in Article 10.3 of Law 4/2020 of 15 October on the Tax on Certain Digital Services?](#)

When the taxpayer knows the amount of the taxable base provisionally self-assessed in a previous settlement period (because they did not know the amount of the taxable base at that time), they must process the adjustment in the period in which they must submit the next quarterly self-assessment of the tax.

In other words, two self-assessments should not be filed, one for the current period and another amending the one for the period initially self-assessed, but only the one for the current self-assessment period. However, this self-assessment, which includes the adjustment referred to in Article 10.3 of the Law, must be completed with the breakdown contained in the approved tax form (Form 490), differentiating the quarter(s) and financial year(s) to which the adjusted amounts correspond.

There is, however, an exception to the aforementioned form of adjustment, and this is in the case where, at the time of filing the self-assessment, the taxpayer no longer has the status of taxpayer.

In this case, the self-assessments submitted with provisional amounts of the taxable base must be adjusted by submitting the corresponding complementary self-assessments and/or requests for rectification thereof, with the breakdown and content set out in the annex to the Form 490 order.

[5.4 Can the new territory-specific boxes in the “Adjustment \(Art. 10.3 Law 4/2020\)” section be completed when adjusting the quarters of financial year 2021 and the first quarter of 2022?](#)

No. According to the procedure laid out in Article 10.3 of Law 4/2020, taxpayers may adjust any of the previous periods within the limitation period, but may only complete the new boxes relating to territory-specific taxation in this procedure when adjusting the second quarter of 2022 onwards.



6. TAX RETURN AND DEPOSIT

6.1. Should I submit a tax register declaration if I am obliged to pay the TCDS?

Yes. TCDS taxpayers must submit a tax register declaration (Form 036):

- Tax register declaration (Form 036), if you were not previously included in the Tax Register of Business Persons, Professionals and Withholders, ticking box 111 (Registration in the tax register of business persons, professionals and withholders) and then, on page 7 of the same form, fill in boxes 714 (registration) and 715 (date).
- Tax register amendment declaration (Form 036), if you are already registered in the Tax Register of Business Persons, Professionals and Withholders, notifying this new status (TCDS taxpayer), ticking box 137 (Modification of data relating to other taxes and registers) and then, on page 7 of the same form, fill in boxes 714 (registration) and 715 (date).

D) Impuesto sobre Determinados Servicios Digitales			
Obligado a presentar autoliquidación por el Impuesto sobre Determinados Servicios Digitales (Modelo 420)	714	Alta <input type="checkbox"/>	Baja <input type="checkbox"/>
			715 Fecha <input type="text"/>

Tax register declarations must be filed from 1 July 2021, the date on which the appropriate tax register amendments come into force.

6.2. In 2021, if my net turnover in 2020 was more than 750 million euros and in a given quarter I exceeded the taxable digital services threshold in the specific manner provided for that year (question 4.2), but in the following quarter I did not exceed it, which TCDS-related returns do I have to file in both quarters?

In that case, you must file:

- the quarterly self-assessment of the TCDS (Form 490) for the quarterly settlement period in which the threshold was exceeded in the specific manner provided for that year (question 4.2);
- tax register declaration Form 036 (amendment or registration, depending on whether or not you previously appeared in the Tax Register of Business Persons, Professionals and Withholders).

If you do not exceed the aforementioned threshold (in the specific manner provided for that year) in the following quarterly period, you must file tax register declaration Form 036 (for



amendment or deregistration), but you do not have to file Form 490 corresponding to that settlement quarter.

6.3. When do I have to submit the self-assessment and payment of the tax in 2021 and 2022?

In general, the filing period is the month following the end of the calendar quarter. If the last filing day is a non-working day, the filing period will end on the first working day immediately following that period.

However, for the first year of application, 2021, the self-assessment for the first quarter of 2021 will be filed and deposited within the period established for the filing and deposit of the self-assessment for the second quarter of 2021. Therefore, the first self-assessments of the tax will not be filed until 1 July 2021.

Consequently, for 2021, the filing and deposit periods for the quarterly self-assessments of the tax (Form 490) are as follows:

2021	
<i>Filing and deposit periods (except payment by direct debit)</i>	<i>Filing periods with payment by direct debit (*)</i>
<ul style="list-style-type: none">• First quarter: 1 July to 2 August 2021 (1)	<ul style="list-style-type: none">• First quarter: 1 to 28 July 2021 (1)

<ul style="list-style-type: none">• Second quarter: 1 July to 2 August 2021 (2)• Third quarter: 1 October to 2 November 2021 (3)• Fourth quarter: 1 to 31 January 2022 (4)	<ul style="list-style-type: none">• Second quarter: 1 to 28 July 2021• Third quarter: 1 to 28 October 2021• Fourth quarter: 1 to 26 January 2022
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(1) The first quarter of 2021 is filed in the second quarter filing period (sole transitional provision of the Order on Form 490).

(2) As 31 July and 1 August are non-working days.

(3) As 31 October and 1 November are non-working days.

(4) Or immediate subsequent working day, if 31 January 2022 is a non-working day.

(*) Important: if you wish to pay the tax by direct debit in 2021 through an entity collaborating in Tax Administration collections, you must present the self-assessment with a request for direct debit, generally 5 days before the end of the period.



The **periods for 2022** are as follows:

2022	
<i>Filing and deposit periods (except payment by direct debit)</i>	<i>Filing periods with payment by direct debit</i>
<ul style="list-style-type: none"> • First quarter: 1 to 30 April 2022 • Second quarter: 1 to 31 July 2022 • Third quarter: 1 to 31 October 2022 • Fourth quarter: 1 to 31 January 2023 	<ul style="list-style-type: none"> • First quarter: 1 to 25 April 2022 • Second quarter: 1 to 26 July 2022 • Third quarter: 1 to 26 October 2022 • Fourth quarter: 1 to 26 January 2023

6.4. If from 2022 onwards I am obliged to file Form 490, which self-assessments must I file? And which tax register declarations?

You must file quarterly self-assessments for the tax (Form 490) and deposit the resulting amounts in the periods provided for 2022.

With regard to the tax register declarations to be filed, if you become a taxpayer for the first time in 2022 (due to exceeding the thresholds for 2021), you must file Form 036 for amendment or registration, depending on whether:

- you were already in the Tax Register of Business Persons, Professionals and Withholders: 036 (amendment), ticking box 137 (Modification of data relating to other taxes and registers) and then, on page 7 of the same form, fill in boxes 714 (registration) and 715 (date).
- you were not already in the Tax Register of Business Persons, Professionals and Withholders: Form 036 (registration), ticking box 111 (Registration in the tax register of business persons, professionals and withholders) and then, on page 7 of the same form, fill in boxes 714 (registration) and 715 (date).

D) Impuesto sobre Determinados Servicios Digitales			
Obligado a presentar autoliquidación por el Impuesto sobre Determinados Servicios Digitales (Modelo 420).....	714	Alta <input type="checkbox"/>	Baja <input type="checkbox"/>
	715	Fecha <input style="width: 100px;" type="text"/>	



6.5. What returns must I file if in any quarterly settlement period there is no tax payable (tax equal to zero euros)?

If you are a taxpayer and have no amount to pay (zero tax payable) in a quarterly tax return period, you must file quarterly self-assessment Form 490, filling in the “Negative tax return” box on the form.

Negativa (cuota cero)	<p>Declaración negativa (sin cuota a ingresar)</p> <p>Negativa <input type="checkbox"/></p>
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6.6. Who can file Form 490 for the taxpayer?

Like all other tax self-assessments, Form 490 can be filed by:

- a) Taxpayers.
- b) Voluntary representatives of the taxpayers with authorisation (proxies) to electronically file tax returns and self-assessments with the Tax Agency on their behalf or representation.
- c) Shared tax reporters.

6.7. How can I get power of attorney to file Form 490?

You can get power of attorney through the following means:

1. By appearance of the legal representative of the entity or of the person with sufficient power to grant powers of attorney.
2. With a public or private document bearing a signature authenticated by a notary, submitted to the Tax Agency.
3. By internet using any of the identification and signature systems provided for in Articles 9 and 10 of Law 39/2015, of 1 October, on the Common Administrative Procedure of the Public Administrations.

The power of attorney may be granted to one or to several parties, including both individuals and legal persons. For more information, please consult the following link:



Spanish:

<https://www.agenciatributaria.es/AEAT.internet/Inicio/ Segmentos /Colaboradores/Registro de apoderamientos/Registro de apoderamientos.shtml>

English:

https://www.agenciatributaria.es/AEAT.internet/en_gb/Inicio/ Segmentos /Colaboradores/R egistro de apoderamientos/Registro de apoderamientos.shtml

6.8. What does shared tax reporting mean for the purposes of filing Form 490?

Shared tax reporting in the tax system allows multiple procedures and actions to be carried out online on behalf of third parties, including the electronic filing of self-assessment tax returns.

Shared tax reporters must hold the appropriate voluntary representation for the electronic filing of tax returns, without conferring on the filer the status of representative to intervene in other acts or to receive all types of communications from the Tax Agency on behalf of the taxpayer or interested party, even when these are a consequence of the document filed.

A specific shared reporting agreement will be set up for the Tax on Certain Digital Services, enabling any entity in the group to file tax returns related to the tax.

At any time, the Tax Agency may require shared tax reporters to accredit the representation they hold to act on behalf of third parties. In other words, accreditation of representation a priori is not necessary.

For more information, please consult the following link:

Spanish:

<https://www.agenciatributaria.es/AEAT.internet/Inicio/ Segmentos /Colaboradores/Colaboracion Social en la presentacion de declaraciones/Informacion/Informacion.shtml>

English:

https://www.agenciatributaria.es/AEAT.internet/en_gb/Inicio/ Segmentos /Colaboradores/C olaboracion Social en la presentacion de declaraciones/Informacion/Informacion.shtm

6.9. When it comes to groups, who can file the returns of the the various taxpayers?

There are various possibilities for filing, regardless of individual filing by each of the group's entities:

1) Filing via a proxy (voluntary representative). See question 6.7. 2) Filing through a shared tax reporter:

- The reporter is not part of the group. In other words, it is the generic shared tax reporting that currently allows certain professionals in the tax field to file tax returns.



- The reporter is part of the group. This is a new, specific shared tax reporting agreement that enables the entity that signs it (any entity in the group for the purposes of the TCDS) to file returns for each of the entities in the group that have granted it the appropriate power of attorney.

In addition to having the filing entity sign the corresponding agreement, the group's other entities must also grant their power of attorney to their "filer". Although accreditation of this does not have to be provided initially, it may be required at any later time by the Tax Agency.

There is a form for granting representation.

6.10. What documentation must be submitted by an entity wishing to sign a shared tax reporting agreement with the Tax Agency for the electronic filing of tax returns, communications and other tax documents on behalf of the group's entities?

To process the shared tax reporting agreement for the electronic filing of tax returns, communications and other tax documents on behalf of the group's entities, as defined in Article 4.3 of Law 4/2020, of 15 October, on the Tax on Certain Digital Services, the entity that is to sign the agreement must send the following data and the corresponding documentation by e-mail to comunicacion.sepri@correo.aeat.es:

- Written document formally requesting, by whoever is authorised to do so, the signing of a shared tax reporting agreement under the provisions of Article 92 of Law 58/2003, of 17 December, on General Taxation, for the electronic filing of tax returns, communications and other tax documents on behalf of third parties.
- Full name and NIF of the entity (PDF format)
- Name and NIF of the person who will sign the agreement on behalf of the entity (PDF format)
- Deed of sufficient power of attorney to represent the entity before the public administration, of the person signing the agreement (PDF format)
- Name and NIF of a contact person
- Contact phone number
- Address of the entity
- E-mail address

Given that the agreement is processed electronically, it is essential that the person signing the agreement on behalf of the entity has the following for this purpose:



- a personal electronic certificate that generates their digital signature, or
- the representative certificate of the legal entity that will be used to sign the agreement.

6.11. When it comes to groups, is there any way to simplify the filing of returns for the various taxpayers in a group?

After signing the corresponding specific shared tax reporting agreement set up for this purpose, a group's filing entity may use its own qualified electronic certificate to file the returns of the various entities in the group by means of:

- Batch filing. The batch filing system makes it possible to select the return files for each of the entities for which the filing is to be carried out, as well as the file with the NRCs (complete reference number) of the payments. The tax returns of the different entities in the group are selected and filed in a single filing.

You can obtain more information in the following link to the Spanish Tax Agency website:

https://www.agenciatributaria.es/AEAT.internet/Inicio/Ayuda/_comp_Consultas_informaticas/Categorias/Presentacion_de_declaraciones/Presentaciones_por_lotes/Presentaciones_por_lotes.shtml

- Direct "machine to machine" filing, in the technical terms authorised for this purpose by the Tax Agency.

6.12. Payment of tax debt by direct debit.

You can make payments by direct debit at a depository entity that collaborates in collections management for the Tax Agency.

In this case, you must fill in the self-assessment by entering the direct debit order and you must enter the International Bank Account Number (IBAN) of the account from where payment is to be made.

N.B.: the direct debit account must meet the requirements set out in Article 2 of Order EHA/1658/2009, of 12 June, establishing the procedure and conditions for the direct debit of payments for certain debts whose management is attributed to the Spanish Tax Agency.

In any case, the direct debit order must refer to the total amount that is to be paid resulting from the self-assessment filed electronically.

Period: generally speaking, to be able to make payments by direct debit you must file the selfassessment 5 days before the end of the filing period.



Deadlines for direct debits
<ul style="list-style-type: none">• First quarter: 1 to 25 April• Second quarter: 1 to 26 July• Third quarter: 1 to 26 October• Fourth quarter: 1 to 26 January

You can consult the taxpayer's calendar for each tax year, which shows the deadline for filing each self-assessment.

6.13. Payment of tax debt without direct debit.

In this case, the taxpayer or, where applicable, the filer, must contact the collaborating entity (by electronic means or by visiting one of its branches) to make the payment of the resulting amount.

Having done the above, you must fill in the self-assessment by entering the complete reference number (NRC) obtained when making the payment.

The NRC is a 22-character code obtained as proof of payment for online tax return filings.

More information on this means of payment can be found at the following link:

https://www.agenciatributaria.es/AEAT.internet/Inicio/Ayuda/_comp_Consultas_informaticas/Categorias/Pago_de_impuestos_deudas_y_tasas/Impuestos/Pago_de_autoliquidaciones_obtencion_de_un_NRC/_Pago_de_autoliquidaciones_obtencion_de_un_NRC_.shtml

6.14. If I do not have an account with an entity collaborating in Tax Administration collections, how can I pay the self-assessed tax debt on Form 490?

In this case, payment may be made by bank transfer, in the cases, terms and conditions set out in the Resolution of 18 January 2021, of the Directorate General of the Spanish Tax Agency, which defines the procedure and conditions for the payment of tax debts by means of transfers through entities that collaborate in collections management for the Tax Agency (<https://www.boe.es/buscar/act.php?id=BOE-A-2021-1617>).



6.15. Self-assessment resulting in payment and with request for deferral or instalment payment, compensation or acknowledgement of debt.

A distinction must be made between whether: A)

If it is a partial payment of the debt:

The procedure is similar to the total payment of self-assessed tax debt without direct debit (you must obtain the full NRC), although you must subsequently enter the tax settlement code assigned to you by the system when submitting the form (seventeen characters).

Subsequently, with this settlement code, you can electronically request offsetting, deferral or payment in instalments of the unpaid amount, either immediately after obtaining the code or at a later date, through the procedure set up for this purpose at the Tax Agency's e-Office.

B) If the debt is not paid, but the intention is to request offsetting, deferral or payment in instalments or simply acknowledging the full amount of the resulting debt:

You must electronically file the self-assessment without deposit, selecting the option you want in relation to the debt (offsetting, deferral or payment in instalments or simple acknowledgement of the debt without deposit).

Subsequently, with the settlement code assigned by the system, you can request deferral of the debt or payment in instalments.

7. ISSUES RELATING TO THE IDENTIFICATION OF THOSE OBLIGED TO DECLARE THE TAX

7.1. When filing Form 490 for self-assessment of the Tax on Certain Digital Services, how should a company or entity that is not resident in Spain identify itself to the tax authorities?

Legal persons and entities must request a NIF (Tax Code) from the Spanish Tax Agency to identify themselves and properly comply with their tax obligations.

According to Spanish legislation, taxpayers must include their NIF in all self-assessments, returns, communications or documents they submit to the tax authorities and in the documents with tax implications that they issue as a result of their activity, in transactions with credit institutions. In addition, they must communicate this to other taxpayers in accordance with the provisions of the tax regulations.



[7.2. What form has to be used to request a Spanish Tax Code \(NIF\)?](#)

For legal persons and entities, the application for a NIF is submitted by means of Form 036 “Tax register declaration of registration, amendment or deregistration in the tax register of business persons, professionals and withholders”, which must be accompanied by certain documentation relating to the entity in question (see FAQ 7.3. What documentation must be provided by foreign legal persons or foreign entities without legal personality?)

In the tax register declaration (Form 036), there must be a record of the complete identifying details of their legal representatives and also, if applicable, of any voluntary representatives.

[7.3. What documentation must be provided by foreign legal persons or foreign entities without legal personality?](#)

The documentation to be submitted by foreign entities, together with Form 036, to obtain a NIF tax code (which will begin with the letter N) is as follows:

- Document certifying the existence of the company. This may be the articles of incorporation in your country and the bylaws of the entity registered in an official registry in your country or certification from a notary, registry or tax authority attesting to the existence of the company.
- Photocopy of the card or document certifying the NIF issued by the Spanish Administration of the person signing Form 036 as a representative of the entity.
- Photocopy of the document which certifies that the person signing the form has sufficient powers to do so. This will not be necessary if this person is identified as such in the document certifying the company’s existence.

If the documents provided are not issued in Spain, the Spanish tax authorities may require a legalised copy bearing the Hague Apostille, translated, if necessary, either by an official translator or through the Spanish Embassy or Consulate.

[7.4. Is it possible to carry out the procedures for assigning a NIF at Spanish consulates and embassies abroad?](#)

Yes. Foreign entities can obtain a NIF (beginning in N) in most of the Spanish diplomatic representations or consular offices abroad.

However, these consular offices may reject requests by the concerned parties who are not residents of their constituency.

Click on the following link to view the Spanish Consular Offices abroad:



Spanish Consular Offices abroad

https://www.agenciatributaria.es/AEAT.internet/Inicio/Ayuda/Certificado_electronico/Como_obtener_un_certificado_electronico/Oficinas_de_registro/Oficinas_de_registro.shtml

7.5. What information and documentation do I need to provide in order to apply for a NIF (beginning in N) for a foreign legal person or entity at the Spanish Consular Office abroad?

Foreign legal persons or entities without legal personality that apply for the NIF beginning in N through a Spanish Consular Office abroad must provide the following necessary data:

- Whether or not they have legal personality.
 - Company name or trading name.
 - Tax identification number or code assigned in the country of residence.
 - Tax address, which in general will be the registered office.
 - Date of incorporation and date of recording in the corresponding public register, if applicable.
 - Initial corporate capital, if applicable.
 - Representatives: full name, corporate name or trade name and tax identification number (NIF) of the legal representatives, if applicable; full name, corporate name or trade name, NIF, tax address and nationality of their representative in Spain.
 - For organisations in the income allocation system incorporated abroad: full name, corporate name or trade name, NIF, tax address and nationality of its shareholders, partners or heirs.
- In order to be able to assign the NIF beginning in N to the legal person or entity without legal personality, please note that the legal representatives and, where applicable, the partners must have a Spanish NIF.

The original and, if requested, a scanned copy of the following documents must be submitted:

- Certification of the registry or tax authority of the country of origin which attests to the company's actual existence and the data to be recorded.
- In relation to the individual who signs the application for the company's NIF as its legal or voluntary representative:
 - Card or document certifying the NIF issued by the Spanish Administration
 - Document certifying that the person signing the entity's NIF application has sufficient power to do so. For this purpose, a certificate from the registry or tax authority of the country of origin certifying the existence of the entity will suffice, when the person signing the application is the legal representative of the entity, and in the aforementioned certificate they are also listed as the legal representative.



7.6. Once I have the NIF, can I file the self-assessment tax return (Form 490)?

No. You also need to have a recognised electronic certificate to file the tax self-assessment; it is already mandatory to file it electronically via the internet.

Once you have been assigned a NIF, you can apply for an electronic certificate from the Fábrica Nacional de Moneda y Timbre (Spanish Mint), for individuals, legal persons and entities without legal personality, at the Spanish Consular Office abroad.

7.7. Where can I find more information on the identification of non-resident entities?

More information related to obtaining a non-resident NIF can be found at the following link:

Spanish:

https://www.agenciatributaria.es/AEAT.internet/Inicio/La_Agencia_Tributaria/Campanas/Campanas/Fiscalidad_de_no_residentes/Identificacion/Preguntas_frecuentes_sobre_obtencion_de_NIF_de_no_Residentes/Preguntas_frecuentes_sobre_obtencion_de_NIF_de_no_Residentes.shtml

English:

https://www.agenciatributaria.es/AEAT.internet/en_gb/Inicio/La_Agencia_Tributaria/Campanas/Campanas/Fiscalidad_de_no_residentes/Identificacion/Preguntas_frecuentes_sobre_obtencion_de_NIF_de_no_Residentes/Preguntas_frecuentes_sobre_obtencion_de_NIF_de_no_Residentes.shtml