

Member States capabilities in fighting tax crimes

Relevant legal definition(s) of tax-related offences

	Tax avoidance	Tax evasion	Money laundering
Spain	is understood as a legal act - unless deemed illegal by the tax authorities or, ultimately, by the courts - of using tax regimes to one's own advantage to reduce one's tax burden.	is defined as an illegal act of evading taxes by concealing income, earned either legally or illegally, from detection and collection by the tax authorities.	refers to acts involving the processing of proceeds of crime to conceal their illegal origin and bring them back into the legal economy.
Legal text	N/C	<ul style="list-style-type: none"> • Tax crime: Article 305 and 305 bis of the Penal Code • Tax infringement: Article 183 of General Taxation Law (Ley General Tributaria) 58/2003 of 17 December (BOE of 18 December), hereinafter 'LGT' 	Article 301 of Organic Law 10/1995 of 23 November (Official State Gazette (BOE) of 24 November), of the Penal Code
Nature of the offence	N/C	N/C	N/C
Objective element	N/C	<ul style="list-style-type: none"> • Tax crime: To defraud the state, community, regional and local tax authorities, evading the payment of taxes, amounts which were withheld or which should have been withheld or tax payments, irregularly receiving rebates or enjoying tax benefits in the same way, provided that the sum of the defrauded payment, the unpaid sum of retentions or payments or of rebates or tax benefits irregularly obtained or enjoyed are in excess of 120.000 € • Tax infringement: Intentional or unintentional act or omission of any degree of negligence that is categorised and sanctioned as such in this or another law.: Intentional or unintentional act or omission of any degree of negligence that is categorised and sanctioned as such in this or another law. 	<p>Whoever acquires, possesses, uses, converts, or transfers assets, knowing they originated from a criminal activity, committed by him/herself or a third party, or who tries to hide or conceal their unlawful origin in any way, or to help the perpetrator to avoid the legal consequences of his/her acts. Moreover hiding or concealing the true nature, origin, location, destination, movement or rights to the assets or their ownership, knowing that they originated from any of the offences described in the previous section or from involvement in them is prohibited.</p> <p>Tax offences became predicate offences to money laundering with the reform of the Penal Code in 2010, a judgement which has since been upheld by the Spanish courts, for example with the sentence in the Ballena Blanca (White Whale) case, Supreme Court Decision (STS) 974/2012.</p>
Mental element	N/C	<ul style="list-style-type: none"> • Intent • Omission 	N/C

Sanction	N/C	<p>Natural person: Imprisonment up to 6 years</p> <p>Legal person: Fine up to double the defrauded amount may be issued if the offence carries a prison sentence of more than two years. If the prescribed prison sentence for the crime is more than five years, a fine between double and four times the defrauded amount may be issued. In addition, the responsible legal person shall lose the chance to be awarded public subsidies or grants and the right to enjoy tax benefits or incentives or receive social security for a period of three to six years. A ban on dealing with public administrations may also be imposed.</p>	<p>Natural persons:</p> <ul style="list-style-type: none"> • Fine worth up to three times the value of the goods, and • Imprisonment from six months to six years, and, where appropriate, • Disqualification from engaging in their professional activity or industry for three years. <p>Legal person:</p> <ul style="list-style-type: none"> • Fine of two to five years, if the offence committed by the natural person carries a prison sentence of more than five years. • Fine of six months to two years for all other cases (Article 302 of the Penal Code). • Dissolution of the legal person. • Suspension of activities for a period of up to five years. • Closure of the premises and establishments for a period of up to five years. • A ban on carrying out in the future the activities through which the offence was committed, facilitated or concealed. That ban may be temporary or permanent. If temporary, the term may be no longer than 15 years. • A ban on obtaining public subsidies and grants, from entering into contracts with the public sector and from enjoying tax or social security benefits or incentives, for a period of up to 15 years. • Judicial intervention to safeguard the rights of workers or creditors for the period of time deemed necessary, which may be no longer than five years.
Other tax-related crimes		Accounting crime (Article 310 of the Penal Code)	
Aggravating / mitigating circumstances	N/C	N/C	<ul style="list-style-type: none"> • Recurring • Goods originate from an offence related to the trafficking of toxic drugs, narcotics or psychotropic substances, or bribery, influence peddling, embezzlement, fraud and illegal exaction, negotiations and activities prohibited to civil servants and abuses in the performance of their duties, and offences against town and country planning • Criminal organisation
Legal persons/natural persons			
Other information			The limitation period of 10 years applies to money laundering offences.

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Statistical data on tax avoidance, tax evasion and money laundering

Spain	2014	2015	2016	Comments
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MONEY LAUNDERING

FIU: Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences (hereinafter 'Sepblac')				<p>It is answerable to the Commission for the Prevention of Money Laundering and Monetary Offences, an interdepartmental body represented by a number of key players in the fight against money laundering and the financing of terrorism, such as the official tax administration authority (AEAT), the judiciary, the prosecutor's office, prudential supervisors and law enforcement bodies.</p> <p>It is responsible for acting as the national reception and analysis centre for suspicious communications and other relevant information concerning money laundering, the financing of terrorism and underlying related offences, and for releasing the results of the analyses to the competent authorities for investigation purposes. It is also responsible for supervising the compliance of legally bound subjects with the legislation on the prevention of money laundering and financing of terrorism.</p>
Human Resources			111	
Budget (€)				
Type of FIU				
Total number of reports disclosed				
Including Suspicious Activity Reports (SARs)				
Including Suspicious Transaction Reports (STRs)				
Including Unusual Transaction Reports				
Including Cash Transaction Reports				

Including Currency Transaction Reports				
Including External Transaction Reports				
Audits conducted				
Cases transmitted			1.319	Number of financial intelligence reports sent to the AEAT
Court Cases				
Total number of proceedings started				
Number of pending/unresolved court cases				
Total number of convictions				
Including of natural persons convicted				
Including of legal persons				
Number of court cases resolved with an acquittal				
Number of court cases resolved in another way				
Number of court cases resolved in sentences				
Amount of seized financial means				
Including natural persons				
Including corporate bodies				
Including fines				
Amount of fines				
Including imprisonment				
of which, conditional sentence				
of which, unconditional imprisonment				

OTHER TAX-RELATED OFFENCES

Tax Evasion Unit: Official tax administration authority (AEAT)				<p>It was set up as a public-law entity, chaired by the Secretary of State for Finance, and has its own legal status, separate to that of the Government, which, without prejudice to the essential principles that should govern all administrative actions, grants it a certain autonomy regarding the budget and staff management.</p> <p>The AEAT is responsible for the effective application of the state and customs tax system, and for resources from other EU national public administrations that are put under its management by law or agreement.</p>
Human Resources				
Budget (€)				
Number of cases investigated				
Number of Tax Audits conducted	29.561	29.275		Number of inspected taxpayers
Number of Site Visits				
Taxes Debited on the basis of Audits	€4.987.310.000	€7.129.210.000		
Number of tax offences reported	391	341		Reported to public prosecutor
Court Cases				
Total number of proceedings started				
Number of pending/unresolved court cases				
Total number of convictions				
Including of natural persons convicted				
Including of legal persons				
Number of court cases resolved with an acquittal				
Number of court cases resolved in another way				
Number of court cases resolved in sentences				
Amount of seized financial means				
Including natural persons				
Including legal person				
Including fines				
Amount of fines				
Including imprisonment				
of which, conditional sentence				

of which, unconditional imprisonment				
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Spain	Interventions in response to the publication of the Panama Papers
Processing and analysing the Panama Papers data	<p>After the leak of the Panama Papers, Sepblac published the following:</p> <ul style="list-style-type: none"> a) Fourteen financial intelligence reports on natural persons or companies linked to the Panama Papers, in the exercise of its duties associated with the implementation of Law 10/2010 of 28 April. Those reports have been distributed amongst the competent bodies so that they can continue to take action. b) One financial intelligence report, to meet a request made by the Prosecutor's Office of the High Court in the context of investigation 44/2016 that was launched on the case of the Panama Papers. c) Fourteen financial intelligence reports, to meet specific requests made by AEAT's National Fraud Investigation Office concerning 209 legal persons linked to the Panama Papers.
Supervisory activities	
Investigations initiated	
(Pre) trial proceedings initiated	<p>AEAT opened a series of proceedings with a view to assessing the tax situation of the individuals mentioned in the leaks. Within these proceedings, it has been considered necessary in certain cases to request information from Sepblac in virtue of the aforementioned AEAT-Sepblac information exchange agreement of 5 July 2006. Those proceedings will be concluded following a report which determines whether the opening of inspection or investigative proceedings on specific taxpayers will go ahead. Those proceedings have revealed that some of the individuals linked to Spain in the Panama Papers or Bahamas Leaks had previously regularised their tax situation by presenting declarations in ordinary or extraordinary regularisation proceedings, including their entitlements in informative declarations on assets abroad each year (model 720), a key factor for ending the monitoring of this type of taxpayer.</p> <p>In addition, and following the previous assessments, the inspection and investigative proceedings began on the individuals mentioned in the documents. The number of such proceedings will increase as the cases referred to in the previous paragraph close.</p>
Fines and sentences	
Other information	