

Fiscal Policy For Small-Sized Enterprises in Zaragoza, Spain

ANALaura MEDINA-CONDE*

Universidad Tecnológica de la Mixteca
Instituto de Ciencias Sociales y Humanidades
Huaquapan de León, Oaxaca, México C.P 69000
Email: analaaurakinn@hotmail.com

Uziel FLORES-ILHUICATZI*

Universidad Tecnológica de la Mixteca
Instituto de Ciencias Sociales y Humanidades
Huaquapan de León, Oaxaca, México C.P 69000
Email: uziel@mixteco.utm.mx

Abstract

In Spain micro, small and medium-sized enterprises (MSMEs) constitute more than 95% of all businesses. In this context the objective of our research was to carry out an analysis of the fiscal policy of MSMEs in Spain. In order to carry out the judicial research we used two methods to achieve two specific objectives. For the analysis of the fiscal policy applied to MSMEs we used the Juridical Dogmatic method which involves the study of property taxes and fiscal regimes. The second constituted a statistical analysis of the municipality of Zaragoza, Spain.

Key Words: Judicial Analysis, MSME, Income Tax, Fiscal Incentives, Corporation Tax.

Introduction

"In Spain micro, small and medium-sized enterprises (MSMEs) represent almost the entirety of the domestic business market with 99.88% being made up of MSMEs. In the year 2013 the number of MSMEs decreased to 52,282 businesses" (Ministry of Industry, 2015).

* Doctora en Derecho con mención honorífica por la Universidad Autónoma de Tlaxcala, Miembro del Sistema Nacional de Investigadores®, Maestría en Derecho Fiscal por el Centro de Estudios Jurídico Políticos de la Universidad Autónoma de Tlaxcala, Profesor Investigador de tiempo completo "Titular A" de la Universidad Tecnológica de la Mixteca, Posdoctorado en la Universidad de Zaragoza, España CONACYT.

* Maestro en Administración por la Universidad Autónoma de Tlaxcala, Licenciado en Contaduría Pública por la facultad de ciencias económico administrativas de la Universidad Autónoma de Tlaxcala, Profesor investigador de tiempo completo en la Universidad Tecnológica de la Mixteca, cursando Doctorado en Contabilidad y Finanzas en la Universidad de Zaragoza, España.

In this context the general objective of our research was to carry out a judicial study of fiscal policy in Spain. We chose a municipality that allowed us to observe the impact of fiscal policy on business people. Our research was exploratory with a mixed focus and analysis of both qualitative and quantitative data with an explanatory range.

In Spain there are three territorial levels with financial autonomy and tax power, thus allowing us to observe three differing tax systems: the state system, the autonomous system and the local system.

“The Spanish Constitution does not confer financial power exclusively to any one single political entity of the country, but to distinct territorial areas where the state is politically and administratively organised”. However, the incorporation of Spain into the European Union in 1985 meant EU Law being incorporated into the domestic legal system, known in generic terms as “*aquis communautaire*”.

The theoretical contribution of our research can be summarised in the analysis of the detention of tax power which comes from self-government, as mentioned by authors such as Nuñez (2004 p.20; Zamorano, 2008 p.471) and Queralt et al. (2014 p. 177). It is no longer possible to talk about tax power in Spain, as it is no longer possible to refer to a sovereign power that belongs to the people in an indivisible manner as established in the Spanish Constitution. Authors such as Ferreiro (2006 p.306) refer to this limiting of state tax power as the fruit of the decision of the people who, when preparing the constitution, decided to limit state financial power in favour of a super-national organisation. However, Mendez (1997 p.21) and Cayon Gallardo (1990 p. 17) affirm that states are reluctant to concede the entirety of their sovereignty. According to authors such as Lasarte (2014 p.60) and Rodriguez (2014 p.90), the lack of a focus on equality creates loopholes, (Di Prieto et al. 2010 p. 64) which giant or multinational businesses take advantage of. The second theoretical aspect refers to state legitimacy in charging taxes and if there is a direct relationship between tax revenue and legitimacy. In the case of Spain this can be deduced from variables such as fiscal harmonisation and the requirements of budget stability as determined by the European Union as a supranational power.

It should not be forgotten as mentioned by Casado (1987 p.201), that the European Union is a normative tax power trying to achieve an interior market which functions perfectly and is not aimed at obtaining resources. Here the states cannot establish taxes which hinder the free movement of merchandise, services, people or capital. As described by Rodriguez (2014 p. 90) the unequal coordination of direct tax law in the European Union has created great opportunities for fiscal arbitrage, mainly for multinational companies, which can exploit the slightest differences in their large scale transactions.

In this context, authors such as Boaventura (2009 p.49) explain that the consequences of disproportionately prioritising the market to the detriment of legal regulations and the community generates social inequality, lack of freedom, excessive exploitation of natural resources and a lack of peace. Similarly, Bauman (2011 p. 57) regards this as the consequences of globalisation which is why it is important to consider the principle of the Common Good. Habermas (2005 p. 366) affirms that the legitimacy of a state is considered to be a measure of its stability and its acceptance by society, which is why as a premise we should talk about free and equal citizens.

Intermón Oxfam has claimed that Spain is “the second most unequal country in Europe, after only Latvia. It has also pointed out that Spain has the “least effective” tax system to reduce the problem. Moreover, 1% of the Spanish population consolidates more wealth than the poorest 70%” (Oxfam Report, 2015)

In Spain, the *at risk of poverty* rate was 21.6% of the resident population in 2013. Spanish homes have an average annual income per person of around 7,040 euros. The National Institute of Statistics (*INE*) does not measure absolute poverty, only the number of people with a low income in relation to the rest of the population.

Included in this information is the indicator of Severely Materially Deprived People, *AROPE*: At Risk of Poverty or Social Exclusion (Europe 2020 Strategy), where Spain is situated at 28.2% *INE* (2014). However, Severely Materially Deprived is translated as more people with difficulties to adequately feed themselves, more homes which fall behind in making basic payments and more people who fail to maintain their home at an adequate temperature. The definitions of poverty vary considerably between countries. For example, wealthy nations generally employ more generous poverty guidelines than poorer countries.

Table 1. Poverty in Spain

	Spain
Poverty (2013)	20% of la Population.
Annual Income per person (2013)	7,040 euros/ 123,200 pesos
Minimum salary (2013)	21.51 euros/376.42 pesos
GNI per capita by purchasing power parity, PPP (current international \$) (2013)	32,700
Unemployment rate (2014)	25.1%
Inflation (2015)	- 1.073%

Developed with data from the Ministry of Employment and Social Security (2013) Spain, OECD 2014, World Bank (2013)

Haberle (2001) confirms the direct relationship between the development of basic rights and cultural processes. Both processes, normative and cultural, stimulate each other reciprocally. The deterioration of cultural surroundings, authoritarian decline, the absence of precise and adequate cultural policies, institutional deficiencies, unresolved political tensions and the social and economical crisis all directly affect the development and growth of basic rights. Table 2 shows tax income in Spain in proportion to the gross domestic product.

Table 2. Tax income in proportion to the GDP

	Spain (2012)
Collection	36.4 %
Tax revenue	32.9%

(*Agencia Tributaria*, 2012) Spain, (ECLAC, 2013)

As Boaventura points out (2009 p. 49), prioritising the market over legal regulation creates serious problems for the region.

Characteristics of Micro, Small and Medium Enterprises (Msmes) in Spain

It is important to start this section with a definition of MSMEs in order to talk about their characteristics: Spain adopts the prevailing concept at European level which is contained in the Recommendation 2003/361/EC of the European Commission, 6th May 2003 (DOL 124, 20th May 2003). This establishes a common definition of micro, small and medium enterprises in the following manner:

Table 3. Stratification of MSMES in Spain

Stratification of MSMEs in Spain		
Size	Number of workers	Annual turnover
Micro	Less than 10	2 million euros
Small	Less than 10	10 million euros
Medium	Minimum of 250	50 million euros

Created using data from Perez Herrero (2012)

Pérez (2012 p.63) states that the Spanish government uses a single methodological criteria for analysing MSMEs, in line with the European Commission's recommendation, which is that the numbers of employees should not exceed 250. Moreover MSMEs are classified internally. According to the Central Directory of Enterprises *DIRCE* (2014), as of 1st January 2013, the number of existing enterprises in Spain, is 3,142,928; of these 53.46% have no salaried employees, 42.21% have between 1 and 9 salaried employees, and only 0.12% have 250 or more salaried employees.

According to the legal system of Spanish businesses, in first place are people registered as natural persons (51.51%), in second place are limited partnerships (35.74%), and the community of goods is in third place with 3.47% of the total, followed by limited companies with 3.05%.

The distribution of Spanish businesses by large sectors of production (excluding agriculture and fishing) is: 6.54% industrial, 13.56% construction, 24.32% commerce and 55.57% services. According to Palacios and García (2008 p. 517), SMEs are easier to create and are characterised as being dynamic and rapid in growth. These features also generate high competition with other SMEs as well as with large businesses.

Faedpyme (2012) characterises Spanish MSMEs in the following manner: 45.1% of medium enterprises, 33.9% of small enterprises and 23.5% of micro enterprises develop their own technology internally. 40.1% develop a formal strategic plan, 16.9% have an RDI department, 23.6% have business-university alliances, 13.4% cooperate with government organisations, 39.9% have certificates of quality and 79% have a web page. According to Jiménez (2013 p. 183) the main strength and survival element of SMEs is their affordable size, which also often prevents them from competing on the same level with larger businesses favouring a greater mortality rate.

The following section deals with legal assessment.

Legal Assessment of Msmes in Spain

Constitutional Basis of Taxation in Spain

Article 31 of the Spanish constitution states:

"1. Every citizen should contribute towards public expenditure according to their economic capacity by means of an impartial tax system based on the principles of equality and progressivity which in no case should be confiscatory or discriminatory."

Income Tax for Natural Persons (IRPF)

Ruiz-Jarabo states (2010 p. 17) that in 1977 the so called Fernández Ordóñez reform was implemented in the tax system. This meant General Income Tax for Natural Persons disappeared, which had required few taxpayers to submit an annual declaration and provided inefficient levels of tax income. This was replaced with the current IRPF, a tax harmonisation which generalised the obligation to make an annual declaration before the tax authorities. This has since been modified several times, most recently in 2014.

De la Peña Velasco (2015) states that law 26/2014 of 27 November has modified a large number of precepts from the original IRPF law (Law 35/2006 of 28 November), therefore, although the formal structure of the existing tax has been maintained, important changes have been introduced from a quantitative point of view. These changes indicate not only the foreseeable income capacity of the taxpayer but also the internal configuration. Similarly Madrigal and Lucas (2015 p. 13) indicate how these measures reduce the burden on a particular group of taxpayers, such as preceptors of earned income and of low income economic activities, as well as taxpayers with larger families.

The Income Tax for Natural Persons is a direct and personal tax which, according to the principles of equality, generality and progressivity, levies the tax on natural persons in accordance with their environment and their personal and family circumstances (Art. 1 Law 35/2006).

Queralt et al., (2014 p. 78) claim that the IRPF is partially ceded to the Autonomous Communities in such a way that they now have the right to 50% of the tax income, and, in assuming a greater level of fiscal co-responsibility, have also acquired legislative powers in relation to the autonomous communities tax. This should impact on the minimum wage, streamline certain deductions on payments, or simply not streamline anything in which case the gross tax will be charged according to the minimum personal and family allowance and the deductions established by the state. However, the Autonomous Communities are required to set the tariffs applied to the general part of the tax base. Consequently this tariff can be different in each Autonomous Community.

The taxable event constitutes the taxpayer receiving income that may be taxed. The income of the taxpayer is formed by: a) earned income b) yield on capital c) yield on economic activities d) patrimonial profit and loss e) allocations of income as established by law. For the purpose of determining the tax base and calculating taxes, income is classified as general and savings. (Art. 6 IRPF 35/2006).

Tax bases on general and savings income are controlled by the net yield on different sources of income, obtained by the difference between countable income (gross or complete) and deductible expenses for each of the sources. The methods of direct determination and objective estimation are applied to yields from economic activities. Bengochea (2014 p. 13) claims that the Direct Estimate Method measures the real economic capacity of the taxpayer in a direct manner.

Additionally, taxpayers benefit from the fiscal incentives conceded to small-sized enterprises accounted for in corporation tax. In accordance with art. 101 of corporation tax law, these are small-sized enterprises which have not reached a volume of business of 10 million euros net in the previous tax period.

The purpose of the Simplified Direct Estimate Method is to limit formal duties (accounting, records, income, expenses) articles 30.1 and 4 Law and 28 and 31 Regulation. This is for entrepreneurs and professionals in the following three situations: Their activity does not meet the Objective Estimation, they have resigned or are excluded from Objective Estimation, or their volume of business has not overtaken the net annual total of 600,000 euros on the previous year.

With regard to the Objective Estimation applicable to the return on economic activities, the Law on Income Tax for Natural Persons (*LIRPF*) provides a method of objective estimation on the returns of small and medium enterprises and of secondary activities. The main objective of the *LIRPF* is to disregard actual revenue streams and expenses produced in the normal course of business. In its place certain objective indicators are applied that represent the basic structural and economic characteristics of each sector of economic activity (signals, indices, or modules based on certain parameters such as: number of employees and non-salaried personnel, electrical output, and surface area of the premises) previously approved by the Ministry of Finance and Public Administration (*Ministerio de Economía y Hacienda y Administraciones Públicas*). The approved SMEs are given coefficient reductions (for employment and investment incentives) a series of questions (town and municipality, duration of the business season, new business (20% for the first year, 10% for the second) and excesses on certain limits.

For economic activity this is 450,000 Euros annually and for agricultural, farming and forestry activity this is 300,000 Euros annually until 2015. From 1 January 2016 this was lowered by 150,000 and 250,000 annually respectively. The *IRPF* objective estimation regime has similar content to the simplified VAT regime, and the waiver of either of the two provokes the exclusion of the other.

Among the activities within the system of modules are: retail, catering, agriculture and farming.

Fiscal Incentives for the MSMEs in Spain

To begin with it should be noted that taxpayers of this tax who practice an economic activity in direct estimation are given business investment incentives as established under Corporation Tax regulations. In relation to deductible expenses, certain limitations are established, for example, customer service expenses have a maximum deductible value as a business expense of 1% of the invoice (of the net value of business volume). Losses for invoices or uncharged credit can also be recovered in certain situations. With regard to expenses that are difficult to justify in simplified direct estimation, a maximum amount of 2,000 euros a year can be deducted at the end of the fiscal year. Expenses generated in a period of more than two years or those considered to be noticeably irregular are given a reduction of 30%. This reduction can be applied to a maximum total of expenses of 300,000 euros and declared in a sole fiscal year.

Reduction on Economic Activities for a Fiscal Year

The reduction that can be applied to benefit entrepreneurs who work for a sole client, called autonomous and economically dependents (*autónomos económicamente dependientes*, or *TRADE*, in Spanish), is 2,000 euros. A further reduction is applied if the net return on these economic activities is lower than 14,450 euros, when they have no income (and excluding exempt income) higher than 6,500 euros outside their business activity.

There is also a new reduction for taxpayers with non-exempt income lower than 12,000 euros, who have been unable to apply the previous reduction. When the cited amount is equal to or inferior to 8,000 euros a year it is 1,620 Euros a year, and when the sum is between 8,000.01 and 12,000 euros annually it is 1,620 euros, minus the result of multiplying the difference between the cited income and 8,000 euros a year by 0.405.

This reduction together with the reduction for obtaining earned income, cannot exceed 3,700 euros. Moreover the application of this reduction cannot make the return negative (Art. 32.2 LIRPF 35/2006 recently modified by Law 26/2014).

There is a deduction for investing in new or recently created enterprises. The taxpayer can be deducted 20% on the amounts paid for a given period for the subscription of stocks and shares in new or recently created enterprises when they comply with requirements. The maximum deduction base is 50,000 euros annually and is formed by the acquisition value of the stocks and shares subscribed (Art. 68 LIRPF 35/2006, recently modified by Law 26/2014).

Deduction for investment of company profit. Natural persons whose activities comply with the requirements to be a Small- Sized Enterprise can apply a new deduction for investment of company profit in the acquisition of certain material investments or real estate investment, when it is to benefit their business activity.

The return on business activity is made up of the general tax base together with earned income and capital assets. Savings income is basically made up of capital assets, gains and losses. Generally, the recent reform has increased the personal and family tax-free threshold for all IRPF taxpayers. The net base of the tax, general and savings, is the result of reductions on the tax base that tend to generate certain forms of savings such as contributions towards pension plans and similar schemes, as well as compensatory pensions paid to ex-spouses. The tariffs applied to these bases come from the state and the Autonomous Community using their legislative powers on taxation. Therefore, calculating tax requires determining two complete quotas, the state quota and the Autonomous Community quota, making the IRPF tax scheme a little complex. 50% of state deductions are applied to each of the quotas, however, only the deduction approved by Autonomous Communities are applied to their quotas.

Table 4. Aragón personal income tax scales in 2015 (including the amount of the state quota and the autonomous quota)

Aragón personal income tax scales in 2015 General Scale				
Taxable income: From (euros)	Taxable income: To (euros)	State rate	Aragón rate	Total rate
0,00	12.450,00	10,00	10,00	20,00
12.450,01	20.200,00	12,50	12,50	25,00
20.200,01	34.000,00	15,50	15,50	31,00
34.000,01	60.000,00	19,50	19,00	38,50
60.000,01	Onwards	23,50	21,50	45,00

Created

Which is why in Aragón for income over 60,000.00 euros the total rate is up to 45%.

Corporation Tax (Impuesto sobre Sociedades or IS, in Spanish)

“Corporation Tax is a direct tax of a personal nature that levies the income of corporations and other entities of a legal personality” (Martínez et al., 2014 p. 152). In this regard (Ruiz et al., 2014, p. 288), Corporation Tax Law (*LIS*), article 10.3, adheres to Accounting Profit and not legislative tradition. Consequently, tax regulations are no longer used tax to set taxable income. Instead, mercantile legislation of a fiscal nature is used (Code of Commerce, Corporations Law and the General Accounting Plan among others, and there is a General Accounting Plan for SMEs).

Generally the tax base is determined by the method of direct estimation (*LIS* 10.3). One of the most important points to note is that in the method of direct estimation, the tax base is calculated while correcting the accounting profit, through the application of the precepts established by Corporation Tax Law.

With the recent tax reform two new compatible reductions on the tax base have been created: Capital Reserve (Art. 25 *LIS*) is not required to be invested and aims to strengthen business capitalisation and consolidate businesses, moreover, it is not taxable. The reduction of the effective tax rate can be up to 22.5%.

Levelling Reserve, only applicable to small-sized enterprises, allows the tax base to be reduced in a certain tax period with regard to the negative tax bases that are going to be generated in the coming five years. It also allows for the application of future negative tax bases. If there are no negative tax bases in the future, it defers taxation for five years.

The Levelling Reserve is applicable to small-sized enterprises. The amount of the reduction is 10% of the positive tax base and the threshold should not pass one million euros. The amount of the reserve is added to the tax base in the tax periods that conclude in the following five years, when the taxpayer has a negative tax base and the amount is the same. If in the fifth year there have been no negative tax bases, the tax base of that fiscal year will be added. A restricted reserve should be recorded until the tax period when the addition is generated.

The general rate of taxation for 2015 was 28% and was 25% from 1 January 2016. A summary of tax rates is presented in table 7.

Table 5. Summary table of tax rates

Taxpayers	Rates	2015	2016
General rate		28%	25%
For newly created entities, unless they pay taxes at a lower rate, this scale is applied to the first period with a positive tax base and the following period		15%	15%
Business entities with a business volume of under 5 million and a workforce of under 25 employees that pay taxes at the general rate and create or maintain employment: up to 300,000 euros and more		25%	25%
Small-sized companies (business volume under 10 million euros), unless they pay tax at a different rate to the general rate	Taxable income of up to 300,000 euros.	25%	25%
	Remainder	28%	25%
Fiscally protected cooperatives	Cooperative outcome	20%	20%
	Extra cooperative outcome	28%	25%

Created with date from LIS

Enterprises that can be considered as being small-sized are those whose volume of business is less than 10,000,000 euros (Art. 101 Law 27/2014). At taxation they are given the following fiscal benefits:

- Freedom of amortization on the creation of employment. New elements of tangible fixed assets and real estate investment, the results of business activity and placed at the disposition of the taxpayers during the tax period, can be freely amortized as long as the purchased property is used within 24 months from the start of the tax period. Moreover, the total average workforce of the enterprise should increase with respect to the average workforce of the previous 12 months and this increase should be maintained for an additional 24 months (Art. 101 LS 27/2014)
- Accelerated amortization for new elements of tangible fixed assets. Argente and Argente (2015 p. 943) claim that amortizing consists of investments in new elements of tangible fixed assets, real estate, elements of intangible fixed assets and the effects of business activity, through the application of a fixed ratio on the tables for two.
- Impairment losses for debtor insolvency: 1% of existing debtors at the end of the complimentary tax period of the General Regime.

SMEs can form part of a corporate group. It is established in the Code of Commerce art. 42 no 1423, that if the entity forms part of a corporate group, the net amount of business volume should be the whole amount for the entities belonging to the group. This is independent of address and the obligation to formulate consolidated annual accounts, or the compatibility with other special regimes.

The LIS does not establish any conditions regarding the taxable entity's activity in order to benefit from this special status. Furthermore, it is possible for a taxable entity, with its own special tax regime, to qualify for the regime for small-sized enterprises, just like the cooperative entities.

Methods and Materials

The methodology of the sample is developed from the information provided. The National Statistics Institute 2014 (INE), in Zaragoza, Spain affirms that there are 43,938 enterprises. Gaussian Distribution was used in determining the sample with the following characteristics:

Formula

Where:

n = the size of the sample

N = size of the universe

Z = the deviation of the mean value acceptable to achieve the desired level of confidence.

Level of confidence 95% -> Z=1.96

e = the maximum acceptable margin of error (5%)

p = the desired proportion

Formula:

$$n = n = \frac{N \cdot Z^2 \cdot p \cdot (1-p)}{(N-1) \cdot e^2 + Z^2 \cdot p \cdot (1-p)}$$

Where:

n = the size of the sample

N = size of the universe

Z = the deviation of the mean value acceptable to achieve the desired level of confidence.

Level of confidence 95% -> Z=1.96

e = the maximum acceptable margin of error (5%)

p = the desired proportion

Zaragoza, Spain

$$n = \frac{(43,938)(1.96)^2(0.5)(1 - 0.5)}{(43,938 - 1)(0.065)^2 + (1.96)^2(1 - 0.5)} = 224$$

Zaragoza, Spain

Table 6. Technical details of the research

Field work	
Universal object of study:	43, 938 micro, small and medium entrepreneurs
Geographical scope:	Municipality of Zaragoza
Focus:	Transversal
Sampling:	Aleatorio simple
Sample:	224 MIPYMES
Measuring instrument:	Personal survey
Sampling error:	+/- 6.5%
Confidence Level:	95%

Produced by the authors

Results

Two hundred twenty-four classified economic units were interviewed as follows:

Table 7. Activity sector

Sector	Frecuency	Percentage	Valid percentage	Accumulated percentage
Valid Industry	123	54.9	54.9	54.9
Construction	19	8.5	8.5	63.4
Commerce	28	12.5	12.5	75.9
Hospitality and tourism	3	1.3	1.3	77.2
Other	51	22.8	22.8	100.0
Total	224	100.0	100.0	

Based on data from the survey.

Table 8. Number of workers

Sector	Number of workers				Total
	From 1 to 9	From 10 to 49	From 50 to 249	250 or more	
Industry	37	57	19	10	123
Construction	14	5	0	0	19
Commerce	14	11	2	1	28
Hospitality and tourism	0	2	1	0	3
Other	29	19	3	0	51
Total	94	94	25	11	224

Based on data from the survey.

Table 9. Annual income in millions of euros

	From 0 to 2	From 2 to 5	From 5 to 10	From 10 to 43	More than 43	Total
Industry	57	23	15	14	11	123
Construction	15	3	0	1	0	19
Commerce	15	8	1	1	2	28
Hospitality and tourism	0	2	1	0	0	3
Other	40	6	3	1	0	51
Total	127	42	20	17	13	224

Based on data from the survey.

Table 10. Breakdown by sector

	Individuals	Limited liability company	Limited company	Cooperative Society	Other	Total
Industry	2	81	34	0	6	123
Construction	0	13	5	0	0	18
Commerce	4	11	9	2	1	27
Hospitality and tourism	0	1	2	0	0	3
Other	3	34	8	2	3	50
Total	9	140	58	4	10	221

Based on data from the survey.

Table 11. Factors limiting business activity

	Industry	Construction	Commerce	Hospitality and tourism	Others	Total
Weakness in demand	90	15	22	3	40	170
Shortage of skilled labour	18	1	0	0	5	24
Equipment failure	4	0	1	0	0	5
Financial difficulties	26	9	8	0	12	55
Increased competition	38	4	18	1	27	88
Supported administrative procedures	18	4	5	1	9	37
Other causes	12	3	3	0	7	25
Total	206	36	57	5	100	404

Based on data from the survey.

Table 12. Revenue by sector (million euros)

	Up to 10%	Up to 20%	Up to 30%	Up to 40%	More than 40%	Total
Industry	14	24	46	22	5	111
Construction	0	5	10	1	2	18
Commerce	2	3	11	4	2	22
Hospitality and tourism	0	1	1	0	1	3
Other	8	8	29	4	0	49
Total	24	41	97	31	10	203

Based on data from the survey.

Table 13. What percentage of your net profits are used to pay taxes?

	0 to 2	2 to 5	5 to 10	10 to 43	More than 43	Total
Industry	57	23	15	14	11	120
Construction	15	3	0	1	0	19
Commerce	15	8	1	1	2	27
Hospitality and tourism	0	2	1	0	0	3
Other	40	6	3	1	0	50
Total	127	42	20	17	13	219

Based on data from the survey.

Table 13 shows that 43.3% of taxpayers pay between 21% and 30% tax; i.e. in Zaragoza most taxpayers are located in this parameter.

Table 14. What are the reasons for your company complying with its tax obligations?

Trust in the system					
	Not relevant	A little relevant	Relevant	Very relevant	Total
Industry	19	12	58	30	119
Construction	1	5	11	1	18
Commerce	1	6	14	6	27
Hospitality and tourism	0	1	2	0	3
Other	6	5	26	12	49
Total	27	29	111	49	216
Fear of sanctions / fines					
	Not relevant	A little relevant	Relevant	Very relevant	Total
Industry	22	30	42	21	115
Construction	4	1	10	3	18
Commerce	4	6	9	8	27
Hospitality and tourism	0	0	2	1	3
Other	7	11	15	15	48
Total	37	48	78	48	211
Responsibility (civic, ethical, legal)					
	Not relevant	A little relevant	Relevant	Very relevant	Total

Industry	5	3	60	51	119
Construction	0	1	14	4	19
Commerce	0	3	13	11	27
Hospitality and tourism	0	1	2	0	3
Other	1	3	24	21	49
Total	6	11	113	87	217
Other					
	Not relevant	A little relevant	Relevant	Very relevant	Total
Industry	7	2	2	3	14
Construction	1	0	2	0	3
Commerce	1	0	0	1	2
Hospitality and tourism	1	0	0	0	1
Other	3	1	0	0	4
Total	13	3	4	4	24

Based on data from the survey

Table 15. Why do you think companies commit fraud in Spain?

Inability to make the company profitable otherwise					
	Not relevant	A little relevant	Relevant	Very relevant	Total
Industry	19	42	42	9	112
Construction	4	6	8	1	19
Commerce	3	4	16	2	25
Hospitality and tourism	0	3	0	0	3
Other	11	18	16	4	49
Total	37	73	82	16	208
High tax burden					
	Not relevant	A little relevant	Relevant	Very relevant	Total
Industry	3	13	56	38	110
Construction	4	0	10	5	19
Commerce	1	2	13	9	25
Hospitality and tourism	0	1	2	0	3
Other	2	6	24	17	49
Total	10	22	105	69	206
Fraudulent use of resources by politicians					
	Not relevant	A little relevant	Relevant	Very relevant	Total
Industry	5	17	34	57	113
Construction	2	0	7	10	19
Commerce	1	2	7	16	26
Hospitality and tourism	0	0	1	2	3
Other	2	6	18	25	51
Total	10	25	67	110	212

Fraudulent use of resources by civil servants					
	Not relevant	A little relevant	Relevant	Very relevant	Total
Industry	3	19	43	48	113
Construction	2	3	7	6	18
Commerce	0	2	13	11	26
Hospitality and tourism	0	0	1	2	3
Other	2	13	14	21	50
Total	7	37	78	88	210
Misuse of resources by politicians					
	Not relevant	A little relevant	Relevant	Very relevant	Total
Industry	5	15	41	50	111
Construction	2	1	7	9	19
Commerce	1	1	8	15	25
Hospitality and tourism	0	0	2	1	3
Other	1	8	17	24	50
Total	9	25	75	99	208
Misuse of resources by civil servants					
	Not relevant	A little relevant	Relevant	Very relevant	Total
Industry	3	19	43	45	110
Construction	2	3	9	5	19
Commerce	0	0	13	11	24
Hospitality and tourism	0	0	2	1	3
Other	2	10	18	18	48
Total	7	32	85	80	204
Fraud is part of Spanish culture					
	Not relevant	A little relevant	Relevant	Very relevant	Total
Industry	16	24	43	28	111
Construction	3	4	5	7	19
Commerce	4	7	8	7	26
Hospitality and tourism	0	0	1	2	3
Other	5	13	20	11	49
Total	28	48	77	55	208
More profitable considering the sanction and the likelihood of being caught					
	Not relevant	A little relevant	Relevant	Very relevant	Total
Industry	27	39	33	13	112
Construction	6	2	6	5	19
Commerce	8	6	9	2	25
Hospitality and tourism	0	1	1	1	3
Other	12	19	17	1	49

Total	53	67	66	22	208
Others					
	Not relevant	A little relevant	Relevant	Very relevant	Total
Industry	7	1	1	1	10
Construction	1	0	0	2	3
Commerce	0	1	0	0	1
Hospitality and tourism	1	0	0	0	1
Other	3	2	1	0	6
Total	12	4	2	3	21

Based on data from the survey

224 classified economic units were interviewed in Industry, Construction, and Hospitality and Tourism. The highest level of participation was found in the industrial sector. After compiling the information it can be seen that the economic units have a workforce of one to forty-nine employees and an annual income of zero to two million euros. The market constitution of these economic units is limited liability company and limited company.

Weakness in demand, increased competition and financial difficulties are some of the factors affecting the activity of companies, moreover they claim to pay between 20% and 30% in tax. The ethical, legal and civil responsibility of meeting their tax obligations is relevant and very relevant as it reaches 92.16%, meaning there is trust in the system. Payments of sanctions and fines reaches 59.71%.

The elevated tax burden and the fraudulent and inappropriate use of taxes by politicians and civil servants are considered by the economic units to be reasons why enterprises commit fraud on tax payments in Spain. They also agree that it is an ethical, civil and legal responsibility.

Discussion

The theoretical contribution comes from two points: the Tax Power of the states to freely determine their fiscal policy that comes from sovereignty, and the legitimacy of the state in charging taxes. Regarding tax power, the authors affirm that it is no longer possible to talk about Financial Power. Some authors allude to this limitation of state tax power claiming that such a limitation is the fruit of the decision of the people who, when elaborating the constitution, decided to limit state financial power in favour of a super-national organisation. In this regard, Albi (2009, p. 10) states that it is important to highlight that EU regulations can be invoked before the tribunals, especially before the Court of Justice of the European Union, which enjoys predominance over the national legal system. Nuñez affirms (2004, p. 120) that the strongest feelings are quickly exposed at the idea of sovereignty as it refers to the possession of a certain territory, the ultimate title of power (and, for that matter, of legitimacy), formal independence and an international legal personality. The discussion does not lie in the benefits or drawbacks of Spain's integration into the European Union, but in the question "can the people voluntarily relinquish their sovereignty to a super-national body without it being to their benefit?" The theoretical discussion is with regard to: the focus on tax harmonisation and if it should standardise taxes and tax rates, the approach that implies streamlining tax figure rates as much as possible, particularly related to the objectives of the common market, the differential that tries to maximise the common good, but does not seem theoretically viable. The focus on equality is considered to be unattainable since the member countries of the CE, or European Conformity (*Conformité Européenne* in French), maintain a part of their sovereignty and a deeply rooted sense of national independence, due to the fact that, as theoretical analysis shows, the member states find themselves reluctant to relinquish their sovereignty all at once. Authors such as Bauman (2001) claim that it is a constant at a global level and refer to the power that transnational companies have acquired at a

global level to the point where they can dictate a country's public policies. In the case of Spain the authors affirm that if the focus on equality is not addressed, loopholes are created that are utilised by these multinational and transnational companies.

As a result, the statistical analysis of the research looked for an answer to questions such as the reason why the micro, small and medium enterprises pay taxes, trying to determine the level of trust in the state and understanding the impact of fiscal policies with the principles of equality, proportionality and consistency in public spending. As well as trying to understand the causes that could lead to their final closure.

In Spain, as has been specified, there are two main axes which are the IRPF and the IS. Among the fiscal benefits for the MSMEs in the IRPF in Spain are: a process of objective estimation applied to the earnings of the MSMEs and the secondary activities, taxpayers of this tax involved in economic activities benefit from the incentives on business investment established in the rules of the IS, there is a maximum amount on deductible expenses for customer service, it is possible to pick up losses from uncharged invoices or credits in certain situations, a deduction on expenses which are difficult to justify, deductions for economic activities, a deduction for investing company profit, a deduction for investing in new or recently created enterprises, together with general deductions.

Among the disadvantages of the IRPF are that the state quota must be added to the autonomous quota. This is why in Aragón, which belongs to the municipality of Zaragoza, the total rate on incomes over 60,000.00 is up to 45%. This is reflected in the statistic of the percentage of tax that entrepreneurs pay and 13.84% claim to pay between 31% and 40%.

Corporation tax takes certain circumstances of the taxpayer into account, for example, through establishing special tax regimes, the existence of distinctive tax rates and the possibility to apply deductions which adjust quotas. Moreover, there is a deduction on the tax base, "the levelling reserve", which is only applicable to small-sized enterprises. The freedom of amortization ceded with the creation of employment and accelerated amortization for new elements of tangible fixed assets. Additionally, there is a deduction for impairment loss for insolvent debtors. Finally, SMEs can be integrated into a corporate group.

In Spain, the classification of MSMEs in the rules of Income Tax and the General Accounting Plan for SMEs is adhered to allowing specific fiscal benefits. The aforementioned opens the door to future research and the second part of the survey in which entrepreneurs of Zaragoza, Spain answer questions on the reasons why enterprises evade taxes in Spain.

Conclusion

The general objective was achieved by carrying out the legal assessment on the fiscal policy in Spain. The theoretical contribution of the research is summarised in the analysis of the detention of tax power in Spain from which sovereignty is derived. Moreover, there is a direct relationship between tax collection and the legitimacy of the state collecting taxes.

The second specific objective was achieved with the results of the legal study which principally concluded that in Spain the MSMEs' rules on classification are adhered to. Moreover, specific fiscal benefits are considered, although in Aragón, Zaragoza, Spain for Income Tax on Natural Persons, adding the state quota to the autonomous community's quota on income over 60,000.00 euros, the total rate is up to 45%.

The practical contribution comes in the statistical analysis of the answers to the questionnaire given to the micro entrepreneurs in Spain. Here it is observed that in Zaragoza there is compliance with fiscal obligations and a high percentage of trust in the fact that tax money is used appropriately. However, the percentage stated is 71% which means that the state should consider its legitimacy. Finally, possible future lines of research have been established with regard to this work.

References

- Agencia tributaria. "Informe anual de recaudación tributaria 2012". Statistical tax study. Spain.
- Albi, E. (2009). *Imposición directa, doble imposición internacional, hacienda local* (24 ed.). Barcelona, Spain: Ariel economía.
- Argente, J. y Argente, E. (2005). *Guía del impuesto sobre sociedades. Reforma fiscal*, (3 ed.) Madrid, Spain: CISS Wolters Kluwer group
- World Bank, (2013). "INB per cápita, PPA (a \$ internacionales actuales)". <http://datos.bancomundial.org/indicador/NY.GNP.PCAP.PP.CD>. Consulted 22 January 2015.
- Bauman, Z. (2011). *Trabajo consumismo y nuevos pobres*. Barcelona: Gedisa.
- Bengochea, J. (2014). *Exclusión del sistema de módulos en el IRPF e IVA*. Madrid, Spain: Francis Lefebvre.
- Boaventura de Sousa. (2009). *Sociología jurídica crítica para un sentido común en el derecho*. Bogotá: Trotta.
- Casado, G. (1987). "Fundamento jurídico y límites de la armonización fiscal en el tratado de la CEE". *Spanish magazine on finance law*.
- Cayón Gallardo, et. Al. (2009). *La armonización fiscal en la comunidad económica europea y el sistema tributario español: incidencia y convergencia*. Madrid, Spain.
- De la Peña Velasco. (2015). "Política y técnica legislativa en la reforma del impuesto sobre la renta de las personas físicas". *Magazine on doctrine, legislation and tax jurisprudence*, Spain.
- Di Prieto Adriano, et. Al. (2010). *Armonización y coordinación fiscal en la unión europea. Situación actual y posibles líneas de reforma*. Spain.
- Dirce. "Estadísticas PYME evolución e indicadores", Ministerio de industria, energía y turismo: <http://www.ipyme.org/publicaciones/estadisticas--pyme-n14-marzo-2014.pdf>. Consulted 14 December 2015.
- Organización para la Cooperación y el Desarrollo Económicos(OCDE), (2014). "Estudios económicos de la OCDE, ESPAÑA", <https://www.oecd.org/eco/surveys/Spain-Overview-Spanish.pdf>. Consulted 10 September 2015.
- Faedpyme, (2012): *Análisis estratégico para el desarrollo de la pyme en España*. Universidad de Murcia, universidad politécnica de Cartagena, gobierno de Cantabria, Spain.
- Ferreiro, J. (2006). *Curso de derecho financiero español-instituciones*. Barcelona, Spain: marcial Pons.
- Häberle, P. (2001). *El estado constitucional*, México: Universidad Nacional Autónoma de México.
- Habermas, J. (2005). *Facticidad y validez*. México: Trotta.
- Informe Oxfam (2016). Una economía al servicio del 1%.
- INE, "Estadísticas territoriales de estadísticas territoriales municipio de Zaragoza". Consulted 11 December 2014. <http://www.ine.es/fichasweb/regmunicipios.do?Fichas=49> HYPERLINK.
- Jiménez, I. (2013). "Financiación de pymes y la crisis". *Observatorio sobre la reforma de los mercados financieros europeos*. (pp. 83)
- Lasarte, J. (2014). *Competencia fiscal y sistema tributario: dimensión europea e interna*. Pamplona, España.
- Rodríguez, J. (2014). La competencia fiscal: aproximación general al problema, *competencia fiscal y sistema tributario: dimensión europea e interna*, Pamplona, Spain: Aranzadi.
- Martínez, J. Et. Al. (2014) "El impuesto sobre sociedades: una herramienta de política económica". *Crónica tributaria*.
- Madrigal D. Y Lucas M. (2015). *Reforma del IRPF e IRNR 2015*, Madrid, Spain, Francis Lefebvre.
- Menéndez, A. (1997). *Armonización fiscal*. Madrid, España: McGraw-hill.
- Ministerio de Empleo y Seguridad Social (2013), Statistics. <http://www.empleo.gob.es/estadisticas/bel/welcome.htm>. Consulted 5 May 2015.
- Núñez, M. (2014). "Una introducción al constitucionalismo postmoderno y al pluralismo constitucional". *Chilean Legal Magazine*.
- Palacios Fernández y García Muñoz. (2008). "Caracterización de las empresas "gacela" en España -un estudio sobre las pymes de alto rendimiento", *approaches and trends on current organization*

engineering.

Pérez, L. (2012). *Fiscalidad de las pymes*. Valencia: Tirant lo Blanch.

Queralt, Juan Martín, et. Al. (2014). *Manual de derecho tributario*. Pamplona, Spain: Thomson Reuters.

Ruiz, M. (2014). *Impuesto Sobre Sociedades* (vol. Undécima). (J. M. Queralt, J. M. Tejerizo López, & a. Cayón Gallardo, Edits.) Pamplona, España: Thomson Reuters Aranzadi

Ruiz-Jarabo Colomer. (2010). *Estado fiscal y democracia la agencia tributaria en perspectiva*. Valencia, Spain.

Zamorano, C. (2008). "La gobernanza de la unión europea: principio de primacía, efecto directo y traumatismo fundador". *Legal magazine of the royal and pontifical Universidad Católica de Valparaíso* (31).

