

Tax Department / May 2025

Deduction for investment in newly created companies and Form 165.

Article 68 of the Personal Income Tax Law establishes a **personal income tax deduction that allows investors to deduct 50% of the amounts contributed to new or recently created companies.**

This legal provision also determines the requirements that companies must meet in order for the investor to be able to apply the 50% tax deduction. Among these requirements, the following stand out:

- The **legal form** of the company must be a joint stock company, limited liability company or labor corporation or labor limited liability company.
- The maximum deduction base will be 100,000 euros per year and will be formed by the acquisition value of the shares or participations subscribed, i.e., **the investor will be able to deduct up to 50,000 euros.**
- The taxpayer must **not have** direct or indirect **control of more than 40% of the company.**
- The **economic activity carried out must be specific** and may not be wealth management activities; the company must have sufficient personnel and means to operate, which is why it is necessary to employ employees.
- The entity's **equity** cannot exceed 400,000 euros at the beginning of the in which the investment is made.

In addition, in order for investors to benefit from this tax incentive, it seems essential for companies to issue a certification in favor of each partner or participant, which is included in **form 165.**

This document is for information purposes and must be submitted by the entities during the month of January of the fiscal year following the capital increase or creation of the company.

However, both the Ruling of the Madrid High Court of Justice No. 14745/2024 and the Resolution of the TEAR of Valencia, dated January 23, 2024, coincide in stating that the obligation to file Form 165 falls exclusively on the entity that receives the investment, and not on the investing taxpayer.

In this sense, both pronouncements conclude that the failure of the company to comply with this formal obligation cannot prejudice the investor in the application of the deduction for investment in new or recently created companies provided for in Article 68.1 of the Personal Income Tax Law.

Therefore, the taxpayer's right to apply the deduction is recognized even if the company has not filed Form 165.