

THE MOST COMPLETE GUIDE ON TAXES IN SPAIN

Updated



PELLICER  HEREDIA
INTERNATIONAL LAWYERS

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Introduction

Spain is a very popular destination for foreigners and many wish to move here. This tax guide will try to explain in the best possible way **all the tax implications for foreigners in Spain.**

We strongly recommend to always take advice when looking to purchase property in and/or moving to any country, and in particular Spain, where many of the taxes sound similar but are calculated completely differently to similar taxes in other countries of the European Union. There are even taxes which do not exist in other countries, such as Wealth Tax, the Rental Income Tax and Succession and Gift Tax.

The contents of this tax guide are based on Spanish tax laws and regulations at October 2022.

As changes to highlight for this year we can mention:

- **Cataluña, Andalucía and Madrid** have approved their regional budgets or new tax laws with effect from 2022. Regarding personal income tax rates, so there will be new general income tax tables for the 2022 tax year for residents of these regions.
- In **Andalucía** they have implemented some important changes regarding Succession and Gift Tax and they are also considering the elimination of Wealth Tax for the next tax year.
- **Cryptocurrencies** will not need to be included yet in Form 720. Probably next year they will create a new model, called Form 721, to include them.
- A new value for transfer, succession and gift tax purposes has been introduced, the cadastral reference value (**Valor de Referencia**) for real estate.

When are you considered tax resident in Spain or not?

When travelling regularly to different countries, switching from one home to another, and spending similar periods of time in several countries, sometimes it can be difficult to determine in which country you should be paying your taxes.

First of all, Double Taxation Agreements confirm that you will be a resident in the country in which you meet the requirements under the national laws of that State.

For example, **under Spanish laws**, you will be considered **resident for tax purposes** when you have your usual residence in Spanish territory. This happens when you either:

- Spend more than 183 days a year in Spain (January-December)
- It is where your main economic activities or interests lie
- There is also a presumption you are a resident in Spain when your spouse and minor children are resident there, although the Tax Office does accept evidence against this.

You are considered a resident of a Contracting State (Spain or other country, in this case) to any person who, under the laws of that State, is subject to taxation in that State by reason of his domicile, residence, place of management or any other similar criterion.

As a result, **sometimes we can meet the requirements to be considered as a tax resident under the laws of both countries**. In these cases, to make things easier, the Double Taxation Agreements contain a certain **list of tiebreaking rules** that are applied in strict order.

The first criteria that you meet, will determine exclusive tax residency in that country:

1. You will be considered exclusively a tax resident of the State in which you have disposal of a **permanent property**. If this rule does not apply, or you possess property in both countries, your State of Residence will be considered as the one in which you present greater personal and economic ties.
2. If neither of these rules lead to a clear answer, residency can also be determined by analysing in **which one you live on a more regular basis**.
3. However, if you spend long periods of time in both States or don't spend hardly any in either, then you can be considered a resident in the State of which **you are a national**.
4. Finally, if none of the tiebreaking rules above apply, then it will be the **authorities from both States who must come to a mutual and friendly agreement** regarding where you'll be a tax resident.

However, at the same time, sometimes we find ourselves obliged to **pay tax in other countries where we are not residents**. Why is this? This is because each Double Taxation Agreement sets special rules for each type of income (Pensions, Real Estate, Interests, Salaries, Capital Gains, Dividends...) and occasionally allows the other countries to also levy income. When this is the case, you can apply for tax relief in your tax return in the country where you are considered a resident, to avoid double taxation.

If you are seen as a **Spanish resident**, you will be liable for tax on your worldwide income and gains in Spain. **Non-residents of Spain** will be liable for Spanish income tax only on Spanish sourced income and capital gains.

How is rental income taxed?

In this section we must differentiate between renting a property in Spain or abroad.

Renting out a property abroad:

If you are considered tax resident in Spain and you are renting a property abroad, this income remains taxable in that other country but that income is also taxable in your income tax return in Spain. The tax paid for rental income in the other country, can be offset against the Spanish tax on the same income to avoid double taxation.

A reduction of 60% is available against net rental income for residents in Spain before tax is payable (only available for long-term lettings). This also includes lettings income from outside Spain. Additionally, some expenses can be deducted from the gross rental income, but not all of them.

Renting out a property in Spain:

If you are **not considered tax resident in Spain** and you are renting a property in Spain, it makes a difference whether you are resident in another EU/EEA country or not.

Regarding the other **EU/EEA country residents**, their rental income is taxed at a flat rate of 19% and they are able to deduct their expenses (mortgage interest, repairs, agency fees, local taxes and even depreciation, etc).

For those **residents outside the EU/EEA** it is taxed at 24% and no deductions can be used to reduce the gross taxable income.

This tax is paid through the 210 form, each quarter.

Spanish residents that rent out a property in Spain, will be paying tax on the net rental income at the progressive scale rates. There is a reduction of 60% available against net rental income for long-term lets (normally for at least one year in duration).

What about non-residents that have a property in Spain but they are not renting it?

In this case, it is also taxable in Spain. This is generally calculated as 1.1% of the official value of the property (valor catastral) if the value has been revised during the previous 10 years, or 2% if not. This income is called *imputación de rentas inmobiliarias*. This tax is paid once a year through the 210 form.

If you are **Spanish resident and you want to sell your property in Spain**, you should now that the gain on the sale of your main home may be exempt from capital gains tax provided you have lived in the property for at least three years and you are over 65 years old, or if you are under 65 and you reinvest the whole proceeds in a new main home. Certain conditions must be fulfilled to benefit from the main home relief for capital gains purposes in Spain.

What is the “Beckam Law”?

In Spain, there is a **special tax regime** available for individuals who become Spanish tax resident as a result of an assignment to Spain derived from either:

- An employment contract (excluding professional sportspersons);
- Acquiring a board of director position in an entity (with certain restrictions of ownership).

This special tax regime is not applicable to pensioners or self-employed individuals.

Under this regime, eligible individuals who fulfill a series of requirements can choose to be taxed under the non-resident tax rules **for a period of six years** in total.

Only your Spanish income and gains would be taxable in Spain for income tax purposes (apart from employment income, which is taxable on worldwide basis); and only your Spanish based assets would be liable to wealth tax.

Salaries are taxed at a flat rate of 24% up to €600,000 and 47% above that amount.

To opt for this regime, you cannot have been tax resident in Spain for a period of 10 years prior to the tax year in which you move to Spain.

What is the 720 form?

Tax residents in Spain must make an **informative declaration of their wealth outside the country** using Form 720, if they have **at least 50,000 euros** in their possession in any of the three blocks of assets:

- Accounts in financial institutions located abroad.
- Stocks, rights, insurance, and income deposited, managed or obtained abroad.
- Immovable property and rights on immovable property situated abroad.

There is no obligation to report any asset in those groups in which the sum of the assets does not exceed €50,000. In groups where this is exceeded, they will be obliged to report all the assets that make up the group.

If you submit form 720 for the first time in 2022, you should be aware that in subsequent years you will only have to submit form 720 to report on groups in which there has been **an increase of more than 20,000 euros** compared to the last declaration submitted.

If a bank account has been cancelled or a property has been sold in subsequent years, the loss of ownership **must be reported** in the event that the taxpayer has previously filed form 720.

The three reporting obligations, although constituting a different reporting obligation, are declared through the same form, reporting all assets and rights for which there is a reporting obligation.

Form 720 is **submitted from 1 January to 31 March** of the following financial year to which the information in that model refers to.

Form 720 was imposed in 2013 and **will now remain in force with important changes** regarding the limitation periods and the amount of penalties. The changes introduced will mean applying to this regulation the penalties and limitation periods provided for in the General Tax Law, so the offence arising from the 720 model will prescribe after four years as is usual for tax offences and the penalties may not exceed 50% of the amount of the defrauded quota, in accordance with the general regime of the rule. Fines are moved to the general regime, but **the reporting obligation remains**.

Just to clarify, 720 form is not a tax return; it is simply a **requirement to report information about assets and rights**.

What is Income Tax?

With very few exceptions, anyone resident in Spain (more than 183 days) for tax purposes and with any income or capital gains anywhere in the world has to file a tax return.

The cut-off point is **14.000€** under these circumstances:

- **The income has not been taxed at source (pensions from abroad).**
- The income comes from more than one source (e.g. two jobs or two pensions or one of each).

This limit goes up to **22.000€** in any year in which you only receive income from one source and it derives from employment or pensions, including those from overseas as long as **they are being taxed monthly in Spain**.

However, if you do obtain this type of income from more than one source but the amount received by the secondary sources does not go over **1.500€**, then you are able to keep applying the 22.000€ limit. This last limit is even applicable to pensions from abroad taxed at source.

In any case, **a return becomes obligatory in certain circumstances** however low your earnings:

- If you have a claim for double taxation.
- If you are due a refund.
- If you have made pension contributions.
- If you are claiming deductions for the cost of buying your main residence.
- If you have capital gains or income above certain limits.

If you are a resident in Spain, **you will be taxed for your worldwide income** and will be obliged to file income tax returns. **What income is taxed?**

- Earnings from **work** (wages, salaries, pensions, unemployment income, etc.)
- Earnings from **liquid capital** (share dividends, account interests, etc.) and from real estate capital (from the leasing of real estate, etc.)
- Earnings from **economic activities** (employers, professionals, etc.)
- **Net gains and capital gains loss** (by transfer of goods, some prizes, etc.)
- Legally **established allocations on income from the ownership of some properties**, other than the home that is leased, etc.
- **Government grants** (if any).

What is the minimum income to be liable for the Spanish Income tax?

- **Minimum exemption per taxpayer:** 5.550€ annually.
- **Over 65 years old:** 6.700€ annually.
- **Over 75 years old:** 8.100€ annually.

In addition, **employment income and pensions** have a minimum exemption of 2.000€. There is a **further reduction of 5.565€** when the income is below 13.115€ and it progressively disappears until the income is above 16.825€ euros.

In Spain, all income falls into one of the following categories:

- **Income from work** (paid employment, pensions).
- **Investment income** (interests, dividends).
- **Income from Real Estate** (rentals, second homes).
- **Income from economic activities.**
- **Capital gains** (lottery, gambling winnings, government grants, sales of assets such as homes, stocks, shares, etc.).

These revenues are then divided into **two sections with two different tax rates**:

- **SAVINGS INCOME.** This category includes most of the investment income and capital gains from the transfer of assets. From 19%:

Taxable savings income Up to euros	Fee Euros	Rest of taxable savings income Up to euros	Rate applicable Percentage
0	0	6.000	19
6.000	1.140	44.000	21
50.000	10.380	150.000	23
200.000	44.880	Onwards	26

- GENERAL INCOME.** This category contains the rest that does not classify as savings income. The applicable tax rate is calculated taking into account the national rate and the autonomic rate which together starts from 19,50%, as the tax scale shows below:

Liquidable Base From euros	Liquidable Base Up to euros	National Rate Percentage	C.Valenciana Rate Percentage	Total Rate Percentage
0,00	12.450,00	9,50	10,00	19,50
12.450,01	17.000,00	12,00	11,00	23,00
17.000,01	20.200,00	12,00	13,90	25,90
20.200,01	30.000,00	15,00	13,90	28,90
30.000,01	35.200,00	15,00	18,00	33,00
35.200,01	50.000,00	18,50	18,00	36,50
50.000,01	60.000,00	18,50	23,50	42,00
60.000,01	65.000,00	22,50	23,50	46,00
65.000,01	80.000,00	22,50	24,50	47,00
80.000,01	120.000,00	22,50	25,00	47,50
120.000,01	140.000,00	22,50	25,50	48,00
140.000,01	175.000,00	22,50	27,50	50,00
175.000,01	300.000,00	22,50	29,50	52,00
300.000,01	Onwards	24,50	29,50	54,00

The declaration **must be filed from the beginning of April to the end of June** of the following year. Your 2022 tax return will be filed next year in the months of April/May/June.

The tax could be paid **in two-stage payments by the end of June (60%) and the beginning of November (40%)** of the same year if you do it by direct debit. Normally the taxpayer's bank details are included in the declaration and the tax is automatically taken from their account.

Failure to pay tax can result **in penalties of between 50% and 150% of the tax owed**, plus interest. Late payment can result in penalties between 5% to 20% of the tax involved, plus interest.

What is Wealth Tax?

Wealth Tax is an annual tax, payable on the total net value of your assets held on 31st December. **The total net value** is understood as: All assets and rights of economic content owned by a natural person deducting charges and encumbrances which diminish its value, as well as personal debts and obligations.

Spain is one of the few countries in which this extra tax is approved. Both **residents and non-residents are subject to paying** wealth tax. This tax does come with a series of **Allowances**, which means that many people are exempt from this tax, however, for wealthier individuals, it can have a significant impact.

As a resident you:

- Pay tax on worldwide assets.
- Have ample tax allowances.
- Are entitled to a 500,000 € deduction per person in the C. Valenciana (700.000 € in Murcia).
- Are entitled to a deduction of 300,000 € per owner on your main home.
- Are **required** to submit the wealth tax declaration:
 - If after applying these allowances, the **net result is positive**.
 - If the total gross value of your **goods exceeds 2 million euros**.

As a non-resident you:

- Pay tax on Spanish assets only.

- From this year, with the introduction of the Law 11/2021, it includes the **possibility of applying regional wealth tax regulations to non-residents in third countries** (outside the European Union or the European Economic Area). It shall be the autonomous region in which your assets with greatest value are located.
- Otherwise, you are entitled to a 700,000 € deduction per person.
- Are required to submit a wealth tax declaration:
 - If after applying these allowances, the **net result is positive**.
 - If the total gross value of **goods in Spain exceeds 2 million euros**.

The difference between Wealth Tax and Income Tax:

The main difference between these two taxes is that **Income Tax** is levied on annual income, all the money that has been earned in that particular year; income from real estate (rents), interest, salaries or dividend payments, for example.

Whereas **Wealth Tax** is levied on the personal fortune or wealth; i.e. the net wealth of individuals, the set of assets and rights of economic content of which they are the owner, minus the charges and encumbrances that reduce their value, as well as the debts and personal obligations for which the owner is liable.

Those required to submit a wealth tax declaration form will have **from April to June 30th of each year**, coinciding with the income tax period.

The IP is a **strictly individual tax**, so a married couple must submit one model each and for example the ownership of the property and rights which are common to both, shall be attributed in half to each of them.

Tax base Up to euros	Fee Euros	Rest of taxable Up to euros	Rate applicable Percentage
0,00	0,00	167.129,45	0,2
167.129,45	334,26	167.123,43	0,3
334.252,88	835,63	334.246,87	0,5
668.499,75	2.506,86	668.499,76	0,9
1.336.999,51	8.523,36	1.336.999,50	1,3
2.673.999,01	25.904,35	2.673.999,02	1,7
5.347.998,03	71.362,33	5.347.998,03	2,1
10.695.996,06	183.670,29	Onwards	3,5

National Rate

Tax base Up to euros	Fee Euros	Rest of taxable Up to euros	Rate applicable Percentage
0,00	0,00	167.129,45	0,25
167.129,45	417,82	167.123,43	0,37
334.252,88	1.036,18	334.246,87	0,62
668.499,75	3.108,51	668.499,76	1,12
1.336.999,51	10.595,71	1.336.999,50	1,62
2.673.999,01	32.255,10	2.673.999,02	2,12
5.347.998,03	88.943,88	5.347.998,03	2,62
10.695.996,06	229.061,43	Onwards	3,5

Comunidad Valenciana Rate

Tax base Up to euros	Fee Euros	Rest of taxable Up to euros	Rate applicable Percentage
0,00	0,00	167.150,00	0,2
167.150,00	334,30	167.100,00	0,3
334.250,00	835,60	334.250,00	0,5
668.500,00	2.506,85	668.500,00	0,9
1.337.000,00	8.523,35	1.337.000,00	1,3
2.674.000,00	25.904,35	2.674.000,00	1,7
5.348.000,00	71.362,35	5.348.000,00	2,1
10.696.000,00	183.670,35	Onwards	2,5

Andalucia rate

Tax base Up to euros	Fee Euros	Rest of taxable Up to euros	Rate applicable Percentage
0,00	0,00	167.129,45	0,24
167.129,45	401,11	167.123,43	0,36
334.252,88	1.002,75	334.246,87	0,6
668.499,75	3.008,23	668.499,76	1,08
1.336.999,51	10.228,03	1.336.999,50	1,56
2.673.999,01	31.085,22	2.673.999,02	2,04
5.347.998,03	85.634,80	5.347.998,03	2,52
10.695.996,06	220.404,35	Onwards	3

Murcia rate

What is Inheritance Tax?

Inheritance is a way of acquiring property, a means of obtaining wealth that can be taxed, that is to say, of constituting the chargeable event of a tax. The Spanish tax system includes a figure whose purpose is to tax the acquisition of wealth free of charge and, therefore, includes as a fundamental taxable event inheritance. This figure is the **Inheritance and Donation Tax (ISD)**, “Impuesto sobre Sucesiones y Donaciones” in Spanish.

Inheritance Tax can be taxed on the basis of personal obligation or real obligation:

- **Personal obligation:** If you have your habitual residence in Spain, you are taxed on your personal liability, and on all the assets and rights you acquire, regardless of where they are located, without prejudice to the deduction for international double taxation that may be applicable.
- **Real obligation:** If you have your **tax residence abroad** you can be subject to the tax by real obligation and will be taxed in the following cases:
 - a) **The acquisition of assets and rights**, whatever their nature, which are situated, may be exercised or are to be exercised **in Spanish territory**.

The following are considered to be located in **Spanish territory**:

- Immovable property situated in Spanish territory.
 - Movable property permanently assigned to dwellings, farms or industrial holdings or establishments located in Spanish territory.
- b) **The perception of quantities coming from life insurance contracts** when the contract has been taken out with Spanish insurance companies or has been concluded in Spain with foreign companies.

So as a summary, **a non resident in Spain only will be liable to pay inheritance tax** if he is heir to an inheritance that includes some property situated in Spain or receives quantities from a life insurance contract made by a Spanish company or concluded in Spain with foreign companies.

For example if a person dies in Spain but his beneficiaries are residents in UK and all of the assets from the inheritance are in UK or other countries they wouldn't have to pay Inheritance Tax in Spain. With a brief outline we will explain all the possible scenarios.

Inheritance Tax Scheme

Deceased Resident or Non-Resident in Spain

1. With properties in Spain:
 - a. **Heir not resident in Spain;** Pays in Spain, for the value of the assets located in Spain
 - b. **Heir resident in Spain:** Pays in Spain, for the value of assets located all over the world
2. Without properties in Spain:
 - a. **Heir not resident in Spain;** Doesn't pay in Spain
 - b. **Heir resident in Spain:** Pays in Spain, for the value of assets located all over the world. Being able to deduct amount paid in another country.

The most important **reductions** for this tax are:

REDUCTION ACCORDING TO RELATIONSHIP TO DECEASED:

COMUNIDAD VALENCIANA

Children under 21 years: 156,000 euros.

Children over 21 years, spouse and parents: 100,000 euros.

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Children under 21 years: 15,956.87 up to 47,858.59 euros.

Children over 21 years, spouse and parents: 15,956.87 euros.

Brothers, nephews: 7,993.46 euros

REDUCTION FOR THE MAIN RESIDENCE OF THE DECEASED:

COMUNIDAD VALENCIANA

Apply a 95% reduction in the real value of the principal residence of the deceased with a limit of 150,000 euros

STATE LAW AND REGION OF MURCIA

Apply a 95% reduction in the real value of the principal residence of the deceased to the limit of 122,606.47 euros

DISABILITY REDUCTION:

COMUNIDAD VALENCIANA

Disability between 33% and 65%: 120,000 euros

Disability less than 65%: 240,000 euros

STATE LAW AND REGION OF MURCIA

Disability between 33% and 65%: 47,858.59 euros

Disability less than 65%: 150,253.03 euros

With the results, the tax is calculated at the following rate:

Tax base Up to euros	Fee Euros	Rest of taxable Up to euros	Rate applicable Percentage
0,00		7.993,46	7,65
7.993,46	611,50	7.987,45	8,5
15.980,91	1.290,43	7.987,45	9,35
23.968,36	2.037,26	7.987,45	10,2
31.955,81	2.851,98	7.987,45	11,05
39.943,26	3.734,59	7.987,45	11,9
47.930,72	4.685,10	7.987,45	12,75
55.918,17	5.703,50	7.987,45	13,6
63.905,62	6.789,79	7.987,45	14,45
71.893,07	7.943,98	7.987,45	15,3
79.880,52	9.166,06	39.877,15	16,15
119.757,67	15.606,22	39.877,16	18,7
159.634,83	23.063,25	79.754,30	21,25
239.389,13	40.011,04	159.388,41	25,5
398.777,54	80.655,08	398.777,54	29,75
797.555,08	199.291,40	Onwards	34

National Rate and Murcia Region

Tax base Up to euros	Fee Euros	Rest of taxable Up to euros	Rate applicable Percentage
0,00		7.993,46	7,65
7.993,46	611,50	7.668,91	8,5
15.662,38	1.263,36	7.831,19	9,35
23.493,56	1.995,58	7.831,19	10,2
31.324,75	2.794,36	7.831,19	11,05
39.155,94	3.659,70	7.831,19	11,9
46.987,13	4.591,61	7.831,19	12,75
54.818,31	5.590,09	7.831,19	13,6
62.649,50	6.655,13	7.831,19	14,45
70.480,69	7.786,74	7.831,19	15,3
78.311,88	8.984,91	39.095,84	16,15
117.407,71	15.298,89	39.095,84	18,7
156.503,55	22.609,81	78.191,67	21,25
234.695,23	39.225,54	156.263,15	25,5
390.958,37	79.072,64	390.958,37	29,75
781.916,75	195.382,76	Onwards	34

Comunidad Valenciana Rate

Adjustments are made according to **the relationship to the deceased** and the pre-existing assets of the taxpayer.

For example:

Group I and II: Children, Spouse and Parents.

Group III: Brothers, Nephews, Uncles.

Group IV: Rest.

IN EUROS	I AND II	III	IV
From 0 to 390.657,88	1,0000	1,5882	2,0000
From 390.657,88 to 1.965.309,58	1,0500	1,6676	2,1000
From 1.965.309,58 to 3.936.629,28	1,1000	1,7471	2,2000
More than 3.936.629,28	1,2000	1,9059	2,4000

Finally, in the case of Valencia this tax is **subsidized** by 75% for children, spouse and parents who have their habitual residence in the C. Valenciana, if that was also the main residence of the deceased. In the Region of Murcia it is subsidized by 99% for children under 21 years.

What is Plusvalía Tax?

It is a tax based on **the increase in the value of urban land** (IIVTNU). It is a tax managed by the town halls and taxes on the urban land revaluation on which a property is built from the time of its acquisition until the date of its transfer, either by sale, inheritance, or donation.

In the case of a **sale and purchase**, it is **the seller** who has to pay the tax, as he is the one who revives the money from the sale. There is a small **exception** and this happens when if the person selling the property is a natural person who is not a tax resident in Spain, the law places the buyer as a substitute taxpayer, which means that if the non-resident does not pay, it can be claimed from the buyer. For this reason, in this type of transaction it is usually agreed that the seller leaves the amount of the capital gain tax with the notary so that it can be paid.

In the case of **donations**, the tax is paid by the person who receives the donation, the same thing happens in the case of **inheritances**, since it is the heirs who have the obligation to pay.

The time limits for payment of the municipal capital gains tax are determined by the nature of the transfer as follows:

- In cases of **donation or sale** of the property, the period shall be **30 working days** from the date of transfer.
- In the case of **inheritance**, the deadline for payment is **6 months** from the date of death of the owner, with an extension period of one year.

On October 26, 2021, **the Constitutional Court decided to override the method used for the plusvalia tax calculation** and collected by the town halls and the government immediately offered an alternative method. They declared that the formula for calculating the tax was null and void, on the grounds that the calculation was based on a percentage that depended on the years elapsed from the acquisition of the property until its transfer and not on its price, so it always came out to pay and they demanded the payment, even when losses were recorded.

The Constitutional Court pointed out that the resolution **does not have retroactive effects**, therefore, claims that already have final judgements from Court will not be able to benefit, only those who are currently being processed will be eligible.

From November 10th of 2021, the new capital gains tax calculation rule will come into force, offering two scenarios for calculating the amount on which the tax will be levied. The new capital gains tax gives citizens two options for calculating the taxable value or amount on which it applies, allowing them to choose whichever is more favourable.

The two available ways for the taxpayer to calculate the capital gains tax are: the calculation according to the cadastral value (**objective method**) and the calculation according to the capital gain (**real or direct method**).

The first scenario is based on **multiplying the cadastral value of the property at the time of applying the tax by the coefficient approved by the Town Halls**, which will be in accordance with the elapsed years of the increase in the value of the land. This coefficient will depend on each Town Hall, but may not be higher than 0.14% for sales of properties less than 12 months old, nor higher than 0.45% for sales of properties more than 20 years old. The tax payable is calculated at a rate set by the relevant local council, which may not exceed 30%.

The second scenario will allow taxation **depending on the increase in the real value acquired in the transfer of the property**. To calculate it, the sale price of the land is subtracted from the purchase price. If the result is positive, it is multiplied by the percentage of the cadastral value of the land at the time of the transfer.

It should also be noted that all transactions in which less than one year has elapsed between the acquisition and transfer of the property will now have to pay this tax.

In the case there is **no increase in the value of the property, you will not have to pay the tax**, but it is very important to file the tax even if the result is not positive and you will have to prove it and provide the necessary documentation of the transfer and acquisition of the property, demonstrating that there has been no actual gain.

If the property is sold for a price equal to or less than the purchase price, the seller will not have to pay capital gains tax.

Also, the purchaser will have to update the period in which he/she has been the owner of the property to calculate the future transfer.

What is IVA? The VAT of Spain

IVA, short for 'Impuesto sobre el Valor Añadido', is the **UK equivalent of VAT**.

The **VAT of Spain** is applied to pretty much everything you buy, except for those products and services which are **exempt**.

The **general VAT rate in Spain** is 21%, and the reduced rates are 10% or 4%, depending on the type of products or services. The goods included in these rates have changed in the last years, along with the Spanish tax legislation.

A number of activities and services are **exempt from the VAT in Spain**, the main ones being:

- **Education** provided by the state or licensed bodies.
- **Tutoring** on subjects that are included in the curriculum, at all educational levels.
- **Sporting services** provided by public bodies or associations.
- **Cultural services** such as museums, libraries, seminars and conferences.
- Artists, writers, composers and translators of **artistic and scientific work**.
- **Insurance**.
- **Postal services**.

From a business point of view, if you are selling goods and providing services which are taxable, you are **obliged to add the corresponding IVA rate** and must register prior to starting your business activity. Not doing so will result in **serious penalties**.

Once registered for the **VAT in Spain**, the following formal obligations are applicable:

- **Issue and deliver a complete invoice to customers and keep a copy**. However, in Spain, in certain transactions, for example, retail sales, a simplified invoice can be issued when the amount does not exceed €3,000, including VAT.

- **Request an invoice from suppliers and keep it** to deduct the VAT paid.
- Keep the following **record books**:
 - Issued invoices.
 - Received invoices.
 - Capital goods.
 - Intra-Community transactions.
- File the **corresponding periodical tax returns (monthly or quarterly)** with the following forms and timeframes
- **Spanish taxpayers registered in the monthly refund register, and entities attached to the special regime for groups of companies**, will present Form 303 (Self Assessment) on a monthly basis and must do so digitally. For groups of companies, Forms 322 and 353 must be filed, in the first thirty calendar days of the month, following the end of the corresponding period of monthly settlement, or up to the last day of February with the tax return-settlement for January. These taxpayers will be obliged to keep VAT Record Books through the Tax Agency E-Office, via the immediate disclosure of information, and are exempt from filing Form 390.
- **If the settlement period is quarterly**, taxpayers will file four quarterly tax returns via Form 303, with the following deadlines: the first three quarters, between 1 and 20 of April, July and October, and the fourth quarter between 1 and 30 of the following January, at the same time as the annual summary statement, Form 390.
- **If there is no quantity to pay or refund during a period**, a tax return with no activity will be filed, where appropriate. Self-Assessment Form 303 (filed quarterly) can be filed digitally via direct debit, from 1 to 15 of April, July and October, and from 1 to 25 of January. With monthly returns, Form 303 can be filed from the 1st to the 25th of the month following the corresponding settlement period.
- **Public Administrations, Spanish taxpayers registered with the Central Office of High-Income Taxpayers or any of the Large Company Management Departments**, taxpayers whose settlement period coincides

with the calendar month and companies whose legal structure is a public or private limited liability company, must file the tax return digitally with an advanced electronic signature (electronic signature or DNI-e).

- **All other Spanish businesspersons or professionals** must file their tax return using Form 303, in a printed format (generated using the printing service found in the E-Office).

What is a double taxation agreement?

If you have tax obligations in more than one country, e.g. you have a property in your home country but are tax resident in Spain, you may be interested in double taxation treaties.

The conventions for the purpose of avoiding international double taxation of income and wealth and preventing tax evasion are **international treaties that regulate tax between two countries**, distributing taxation power between them, with the aim of eliminating international double taxation, preventing tax evasion, guaranteeing legal certainty for taxpayers and States, and ensuring uniform application of tax legislation in both.

The main purpose is to avoid a natural or legal person being taxed in two different countries for the same concept (e.g. personal income tax) or an asset being taxed for the same concept in two different countries. Thanks to these conventions, taxation is regulated between the different countries in such a way that individuals and companies only pay tax once.

Article 80 of the LIRPF provides as follows:

Article 80. Deduction for international double taxation.

When the taxpayer's income includes income or capital gains obtained and taxed abroad, **the smallest of** the following amounts shall be deducted:

a) The effective amount of what has been paid abroad by reason of a tax of an identical or analogous nature to this tax or to non-resident income tax on said income or capital gains.

b) The result of applying the average effective tax rate to the part of the taxable base taxed abroad.

In Spain, double taxation treaties are managed by the Ministry of Foreign Affairs. Spain has currently signed double taxation treaties with **more than 90 countries** around the world.

You can view the complete list by clicking on the Agencia Tributaria. Our **International Tax Planning service** is a service that applies worldwide regardless of the nationality or origin of the clients. The most common situation is usually between Spain and another foreign country, but there is also the possibility of it being between two foreign countries. The service will mainly consist of analysing the specific case presented by the client and reducing the tax cost through the double taxation agreements signed between the countries involved.

What is Transfer and Stamp Duty Tax?

Transfer Tax (TPO)

These transactions are subject to this type of tax:

Transfers for valuable consideration by inter vivos acts of all types of goods and rights that make up the assets of natural or legal persons.

Please note that for the purposes of this tax they are equivalent to transfers of property:

- Adjudications in payment and for payment of debts.
- Declared excess awards

- Ownership proceedings, acts of notoriety and complementary acts of documents for the immatriculation of properties.

Constitution of the following rights:

- Rights in rem
- Loans. The following are considered to be equivalent to loans: credit accounts, acknowledgement of debt, and remunerated deposit.
- Bonds
- Leases. The contract of sharecropping and subletting are equated with leases.
- Right of option to purchase
- Pensions
- Administrative concessions

Remember that there is **absolute incompatibility between the Transfer Property Tax and Value Added Tax**. Thus, transactions carried out by entrepreneurs or professionals in the exercise of their business or professional activity and, in any case, when they constitute supplies of goods or services subject to Value Added Tax (VAT), are not subject to the concept of Transfer of Property for a consideration (TPO).

However, they are subject to TPO:

- Supplies and leases of immovable property, as well as the constitution or transfer of real rights of enjoyment that fall, when they are exempt from VAT, except in cases where the taxable person waives the exemption in the circumstances and under the conditions set out in article 20.2 of the VAT Law.
- Transfers of securities
- Supplies of real estate that are included in the transfer of autonomous business or professional economic units, when the transfer of these assets is not subject to value added tax.

In the case of a purchase in the Valencian Community, this tax would be paid by the purchaser of the property at a rate of 10%. Each region has its own tax rate of this tax.

Stamp Duty Tax

As its name suggests, the tax is levied on legal acts documented in three different types of documents; the formalisation of the legal act in a certain way is taxed.

They are therefore subject to this tax:

- Notarial deeds.
- Commercial documents.
- Administrative documents.

The most important and relevant are the **Notarial deeds**:

In turn, we must distinguish between the so-called "**fixed fee**", which is paid for the matrices and copies of deeds and notarial acts, as well as for testimonials. These documents are issued on stamped paper at 0.30 euros per sheet or 0.15 euros per page, at the notary's choice, the amount paid being, therefore, a tax; and the so-called "**variable fee**" for the first copies of deeds and notarial deeds, when the object is a valuable thing or amount, contain acts or contracts that can be registered in the Property, Commercial and Spanish Patent and Trademark Office Registers and are **not subject to ISD or to the TPO or OS concepts of the ITP and AJD**.

All transfers of real estate that are subject to VAT (sales by real estate developers) and are notarised are subject to the variable tax rate, as are so-called "registry transactions", such as a segregation or grouping of properties.

These notarial deeds will be taxed at the rate approved by the Autonomous Community and otherwise at 0,50 %.

In the Valencian region, the tax rates are the following:

General rate: 1.5%.

Other rates:

- 0.1%: First copies of deeds of purchase of principal residence.
- 2%: In cases of waiver of VAT exemption.

First copies of deeds and notarial deeds formalising mortgage loans or credits when the taxable person is the lender.

The taxable person is the acquirer of the property or right and, failing that, the persons who request or apply for the notarial deeds, or those in whose interest they are issued.

Please note that this information is for general use only. For accurate advice and guidance, we highly recommend you book an appointment with an independent lawyer and take advice your particular circumstances. The rules explained here are in general terms and are not exhaustive.

For more information or assistance, do not hesitate to contact Pellicer & Heredia on + 34 965 480 737 or email us at info@pellicerheredia.com.

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