



**ROSE**  
Financial Planning

## **SPANISH TAXATION – A SUMMARY GUIDE FOR TAX RESIDENTS UPDATE JANUARY 2012**

At the request of many of our clients, seemingly somewhat previously confused as to their standing viz the various types of taxation here in Spain, it seems logical that this same confusion exists in the wider populace and that therefore a simplified summary is called for!

So here is that summary!

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We have 3 areas of service;

- i) Tax
- ii) Mortgages
- iii) Financial Services (Investments, Protection, Pensions)

I mention this because even Mortgages and Financial Services have tax implications and, therefore, as a consequence, most client enquiries into ourselves, irrespective of the key driver, require input on taxation to some degree. Therefore, the guide that follows has an impact on the majority, rather than the minority, of the tax resident population.

Note that certain FS products and Tax services require action by duly regulated firms and, where necessary, Rose FP will introduce you to an associate firm.

### **(1) INCOME TAX**

As a Spanish tax resident you are liable to pay income tax on your **worldwide income** in Spain. You must complete an annual tax return each June with any tax due being paid by 01 July.

The Spanish tax year runs from 01 January to 31 December.

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The dates for declaring Spanish income tax are from 01 May to June 30.

You do not have to file a declaration if your income is less than 8,000 euros a year. The only condition on this limit is that no more than 1,600 euros of this income is from investments. If your income is less than 8,000 euros but it all comes from investments rather than work or pension, you have to complete a return.

The 8,000 euro limit includes total worldwide income of husband and wife.

Savings income is taxed at **18 %** (irrelevant as to whether the income has been generated in one year or in less than one year).

Income from **all other sources** not included in the savings category, are taxed on a scale system ranging from a **24% to 43%**.

### **Deduction from total income**

From total income an individual can **deduct** –

- (i) The total amount of payments into the Spanish Social Security system during a year
- (ii) A personal or family minimum exemption from tax

#### Allowance per individual

- Less of 65 years old -	<b>5.151 €</b>
- More than 65 years old -	<b>6.069 €</b>
- More than 75 years old -	<b>7.191 €</b>

#### Allowance per child living with you

- First descendent –	<b>1.836 €</b>
- Second descendent -	<b>2.000 €</b>
- Third descendent -	<b>3.600 €</b>
- Fourth and following descendents -	<b>4.080 €</b>
- If they are less than 3 years old -	<b>2.200 €</b>

#### Allowance per parent living with you

- Over 65 years old -	<b>918 €</b>
- Over 75 years old -	<b>2.040 €</b>

- (iii) An individual can claim mortgage payments relief of **15%** of the money paid per year with a maximum of **9.015€** if the property is your residential property

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(iv) Earnings from employment, including pension income, attracts a work allowance based on a sliding scale system ranging from 2,600 euros to 4,000 euros

## **(2) CAPITAL GAINS TAX**

Capital gains obtained from the sale of property are subject to CGT and will be calculated taking into account the difference between the sales price of the property and the amount that you declared having purchased it for (the purchase escritura value).

The purchase value will consist of the escritura value of the property, plus any expenses and taxes inherent in the purchase. Inflation factor rates will be applied to this value. Such rates are annually fixed by Spain's National Budget Act and will vary according to the year you purchased your property.

To apply a rate other than the unit, you should have made the investment at least one year prior to the selling date.

The property transfer value will be the real amount of the sale less any expenses and taxes inherent in the sale that have been borne by the seller (the amount to be declared on the new escritura). The difference between the transfer value and the purchase value is the capital gain subject to tax.

The tax rate will be increased from **18% (2011) to 21% wef 1/1/2012** for Non Residents. Spanish Residents will pay even more at 21% for gains up to 6.000 euros, 25% for 6.001 to 24.000 euros and 27% on higher gains.

If you have made improvements to your property (you must have IVA receipts to prove cost), calculations must be made as if there were two capital gains, and a different reduction and inflation factor rates must be applied according to the different periods.

## **(3) WEALTH TAX**

There are 2 elements of taxation that are generally classified as 'Wealth Tax' and they are returned at the same time and on the same form.

1) Patrimonio is calculated at 0.2%, up to €167,129.45 and on a sliding scale thereafter based on the highest of the three following values;

- i) Valor Catastral (rateable value)
- ii) Any revised value imposed by the tax authorities
- iii) Escritura value

2) Renta (Income Tax) is calculated at 24% of 2% of the valor catastral (1.1% if it

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has been revised since 1st January 1994 or 2% if not). This is effectively a tax on assumed rental income (whether it is so or not).

The simplified Form 214 can only be used if just one property is owned and a separate declaration has to be made in respect of each person named in the title deed with the base upon which the taxes are calculated divided by the number of owners. The taxes can be paid at any time during the year following that in which they become due at any bank.

If more than one property with a different referencia catastral is owned (even if it is just a lock-up or a garage) the declarations have to be effected on Form 714 for the Patrimonio and Form 210 for the Renta and the declaration has to be made from the 1st May to 30th June in the year following that for which the taxes are due. It is still individual declarations for each owner. All of the properties may be listed on one form 714 for the Patrimonio but a separate form has to be submitted for each property in respect of the Renta.

If you rent out your property you should pay separate taxes on these rentals pro rata according to the number of days that it is rented.

If you use the figures as instructed AEAT (Hacienda) cannot challenge your declaration just because the valores catastrales have not been revised. This is taken dealt with by using a multiplier of 2% if there has been no revision since 1994 and 1.1% if there has.

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Example Calculation

1) Escritura Value	€	100,000	
		X 0.2%	
<hr/>			
	€	200	Sub Total 1)
2) Catastral Value	€	50,000	
		X 1.1 Multiplier	
<hr/>			
		55,000	
		X 0.2%	
<hr/>			
	€	110	Sub Total 2)
3) <b>Total to pay</b>	€	<b>310</b>	

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NOTE. With effect from 1<sup>st</sup> January 2008 the Patrimonio element has been abolished.

The Renta element of the tax (Income Tax) will remain with no change yet proposed.

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#### **(4) INHERITANCE TAX (Andalucia)**

Spanish '**succession tax**' does not operate in the same way as UK Inheritance Tax. It is a '**transfer tax**', and applies to the transfer of all assets held in the deceased estate to other parties.

Spain's '**Ley de Sucesiones**' provides no large exemption from tax when property is passed to third parties, even if they are the spouse or other family members. The law provides a total exemption from taxes only for legacies under €15,956.87.

However, the exemption applies to **each inheritor**, not to the total estate ie each inheritor receives an exemption of €15,956.87.

So, if you have a property worth €200,000, your half equals an estate valued at €100,000, and you leave it to your spouse, they will receive an inheritance worth €100,000, from which an exemption of €15,956.87 can be deducted. This gives a taxable base of €84,043.13.

But, if you have a property worth €200,000, your half equals an estate valued at €100,000, and you leave it to your spouse and three children, each will receive an inheritance worth €25,000, from which an exemption of €15,956.87 per inheritor can be deducted. This gives a taxable base per inheritor of €9,043.13.

In addition, an inheritor under the age of 21 can have an exemption of up to €48,000. For each year younger than 21, he deducts €4,000 more, until he arrives at the maximum at the age of 13.

This exemption applies to bequests between parents, children, spouses and brothers and sisters. For uncles, cousins and nephews, the exemption is cut by half. For more distant relatives, or those not related at all, there is no exemption.

#### **REDUCTION IN TAX BASE**

**Official tax residents** of Spain leaving their principal residence to wife or children, who are also official tax residents, may be eligible for a **99.9% reduction** in their tax base. The following three conditions must be met:-

- (i) You must have held an official residence permit (and be tax registered) for at least three years.
- (ii) The property you transmit must be your principal residence and you must have lived in it for at least three years.

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(iii) The inheritor must undertake not to sell the property for 10 years. If they do, they are subject to tax.

This reduction applies up to **a maximum of €125,000**.

That is, if your inheritance is a property worth €200,000, you can reduce this total by 99.9%, taking off €125,000 (the maximum reduction available).

So, if your family home in Spain has a market value of €360,000, then half of that is €180,000. Your reduction is again the maximum of €125,000, meaning you must pay Spanish inheritance tax on €55,000, less your personal exemption of €15,956.87, giving a taxable base of €39,043.13.

This reduction is also available for a **principal dwelling** left to a brother or sister over 65 years of age who has been living with the deceased for the previous two years.

The reduction does not apply to any other property, such as car or a yacht or shares in companies, only to the principle residence itself.

The inheritor, in turn, must keep the property for at least 10 years. If he or she attempts to sell it, there will be tax due on the original inheritance.

**Non-residents** cannot take advantage of this reduction.

## SETTING TAX VALUES

Spain has a set system for evaluating assets for purposes of inheritance tax.

### (1) REAL ESTATE

Property is valued either at **market price** or at the **valor catastral**, (the rated value), or at the **value set by Hacienda** for purposes of wealth tax, whichever is greater. So, in almost all cases, you will find that the declared sales price on your title deed, or today's market value, will be the value used. That is, if you bought your flat 20 years ago for €60,000, and it is worth €150,000 on the market today, Spain's tax agency will value it at €150,000 for purposes of calculating inheritance tax.

Hacienda has its own office of valuation and is perfectly aware of the market price of real estate. They will not fine you, but they will charge you the extra tax if you under declare the value of the deceased's assets for IHT.

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## (2) PERSONAL EFFECTS

The furniture, clothing, personal possessions of the deceased are called the *ajuar*. For tax purposes they are routinely valued at **3%** of the price of the property.

## (3) AUTOMOBILES

These are included separately in the estate, as are yachts or airplanes, which will be valued separately.

## (4) STOCKS AND SHARES

Stocks and shares in companies and other investments are valued at their price on the day of the person's death.

## (5) BANK ACCOUNTS

The balance on the day of death is added to the estate.

## (6) LIFE INSURANCE

The amount added to the deceased estate depends on the inheritor's relationship to the deceased -

(i) spouse, 50% is added, (ii) children, total amount is added. Both receive a reduction of €9,000.

## TAX PAYABLE

For spouses and direct line relatives Inheritance tax is calculated on a sliding scale, ranging from **7.5% to 34%**. The actual tax rate and amount of tax payable will depend on the taxable base.

More distant relatives or non-relatives pay more IHT, and wealthy inheritors pay even more. There is a scale which provides multiplying coefficients for the degree of relationship and also the amount of existing wealth of the inheritor. The basic tax rates are multiplied by the coefficients to calculate the tax payable.

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