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SPANISH TAXATION – IMPORTANT CHANGES WEF 1/1/07

Following several years of pressure from the EU, the Spanish Government have at last reviewed their tax structure to eliminate, in part at least, the prejudicial treatment of Non Residents (for taxation purposes) over Residents.

The new regime helps to redress the balance, in particular the Capital Gains Tax on profits from the sale of properties, but an important element surrounding Inheritance Tax has yet to be reviewed.

Before summarising these changes it is important to understand the interpretation of 'Non Residency' for the purpose of taxation both in the UK and Spain.

When are you 'non-resident' for tax?

This is obviously not a straight forward question and will depend on individual circumstances, but generally speaking the following rules can be applied to expatriates living in Spain.

You will be treated by Her Majesty's Custom and Revenue (HMCR) as non-resident from the day after you leave the UK if:-

- you left the UK to go abroad permanently or your absence and full-time work abroad last at least the whole tax year
- your visits to the UK are less than 183 days in a tax year and average less than 91 days a tax year over a maximum of four consecutive years

Therefore, if you spend more than 183 days in a tax year in Spain, you automatically become a Spanish tax resident and are responsible for registering to pay tax in Spain and not in the UK. Even if you do not formally register with the Spanish tax authorities and continue to pay your tax in the UK, you are still legally a Spanish tax resident on the grounds that you spend more than 183 days per year in Spain.

Generally speaking if you live in Spain you are liable to pay tax on income from your worldwide assets in Spain not the UK. Under the 'Double Taxation Agreement' between the UK and Spain you may claim tax relief on your UK income.

TAX LEGISLATION UPDATE FOR 2007

There have been several important amendments to current tax legislation which could have a major impact on expatriates living in Spain, whether they are resident or not.

The new REFORMA of the RENTA DE LAS PERSONAS FISICAS has resulted in the following alterations to current tax legislation as from 01 January 2007:-

1. SAVINGS INCOME

The tax rate on **savings income** has increased.

Included within the savings category is income generated from the following sources:-

- interest
- stocks
- bonuses
- revenue from **life** or invalidity insurances
- any other revenue coming from the real state (sale of land, properties, offices, stock options, investment funds, etc)

All revenues falling into this category are to be taxed at **18 %** (irrelevant as to whether the income has been generated in one year or in less than one year).

At present it is difficult to get a clear picture as to what impact this change will have on investment products currently being offered in Spain, but it would appear that the so called 'tax breaks' available on certain products have been removed in the new Spanish Tax legislation – effectively everything is now moving to a flat 18% CGT on growth regardless of asset class.

2. GENERAL REVENUE

The general revenue category, which includes income from **all other sources** not included in the savings category, are taxed on a scale system ranging from a **24% to 43%**.

Included within the general revenue category are:-

- Rental income from properties
- Income coming from professional and business activities

3. PERSONAL ALLOWANCES

The new law established a personal and family minimum exemption according the following terms:-

Allowance per individual

- Less of 65 years old -	5.050 €
- More than 65 years old -	5.950 €
- More than 75 years old -	6.150 €

Allowance per child living with you

- First descendent –	1.800 €
- Second descendent -	2.000 €
- Thirst descendent -	3.600 €
- Fourth and following descendents -	4.100 €
- If they are less than 3 years old there is an increase of -	2.200 €

Allowance per parent living with you

- More than 65 years old -	900 €
- More than 75 years old -	2.000 €

Invalidity allowance

- Less of 65% -	2.270 €
- More or 65% -	6.900 €

The new law established mortgage payments relief of **15%** of the money paid per year with a maximum of **9.015€** if the property is your residential property.

4. STOCKS

Stocks valued at less than **1.500 €** are exempt from taxation.

5. NON RESIDENTS

- a. The tax rate on **business income** generated from offices, warehouses or business locals is reduced from **35% to 32.5%**.
- b. The tax rate on business income generated from **agents commission** i.e. incomes generated without permanent offices in Spain is reduced from **25% to 24%**.
- c. The tax rate on **stocks, interest and capital revenue** is increased from **15% to 18%**.
- d. The tax rate on **capital gains** (including Property) is reduced from **35% to 18%**. For property the gain is calculated based upon a) the date of sale (the Notarisation of the sale post 01/01/07), b) the declared escritura values at purchase and sale and c) with indexation (RPI based) from the date of purchase applied to the purchase escritura value.

- e. The **withholding tax** paid on the sale of a property and retained until the capital gains tax on the profit is paid is reduced from **5% to 3%**.

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