

Spanish Tax Facts

Introduction	Taxation in Spain occurs at a national level and at a regional ('Autonomous Community') or municipal level.
Tax Year	1 st January to 31 st December
Assessment Basis	Spanish residents are taxed on their worldwide income (earned and unearned), capital gains from all sources and on their worldwide assets. Spain operates a self-assessment regime. For personal income tax purposes, married couples may choose to file tax returns jointly or separately.
Income Tax	<p>Spanish residents are subject to Spanish Personal Income Tax ('IRPF'). Individuals and couples benefit from tax free allowances (Personal Allowances), which are increased in respect of dependent children and depend upon personal circumstances and total earnings.</p> <p>A progressive scale is applied to successive portions of taxable income. Income tax rates range from 15% to 45%.</p> <p>Total taxable income includes salary and other benefits from employment, income from economic activities, property rental income (either actual or deemed), investment income, some capital gains, gifts and special income.</p>
Taxation of Investment Income	A withholding tax of 15% is applied to interest and dividends paid by a Spanish entity to residents in Spain. Any interest and dividends received will form part of the taxpayer's income tax calculation and any withholding tax deducted will be held as a credit against the final calculation of income tax due.
Tax on Property Rental Income	Property rental income forms part of taxable income. Property which is not used for rental or economic activity and is not the taxpayer's permanent residence will be taxed on a deemed income basis based on cadastral value.
Wealth Taxes	An annual wealth tax is applied to residents based upon the value of their worldwide assets. A tax free allowance of €108,182.18 (2006) is applied though it may vary depending on the Autonomous Community in which the taxpayer is resident and any excess wealth is taxed on a progressive scale. Wealth tax rates vary between 0.2% and 2.5% on successive portions of taxable wealth.
Capital Gains Tax	Any capital gains on assets held for more than one year are treated as special income and will be taxed at a flat rate of 15%, although this rate may be reduced on certain assets depending on the length of time the assets were held before 31 st December 1994. Gains on assets held for a shorter period will be classed as general income and form part of the income tax calculation.
Inheritance and Gift Tax	<p>Inheritance and Gift tax is payable by the recipient of the assets. Residents are taxed on their worldwide assets and non-residents are only taxed on the assets and/or rights located in Spain.</p> <p>The amount of tax paid depends upon the value of assets received, at rates of between 7.65% and 34%. These rates are subject to a further multiplication factor (ranging 1 to 2.4) based on the relationship of the recipient to the donor or deceased, and the existing wealth of the recipient. Different tax rates may apply in each Autonomous Community.</p> <p>In addition there are various allowances dependent on the relationship between the recipient and the deceased these are applicable only in case of inheritance. If the beneficiary of the inheritance is a descendant, or adopted, under 21, the taxable base is reduced by an amount as laid down by law (€15,956.87 plus €3,990.72 for each year younger than 21 up to a maximum of €47,858.59). If the beneficiary of the inheritance is a descendant, or adopted, over 21 year, spouse or ascendant the taxable base is reduced by an amount as laid down in law (€15,956.87). If the recipient is a second or third relative the reduction is €7,993.46 but no reduction is available for fourth or more distant relatives or unrelated parties. Additional reductions in each Autonomous Community may apply.</p> <p>The Law also provides generous reductions to the taxable base for life insurance, the inheritance of the habitual dwelling of the deceased and the inheritance and gift of assets and shares of family business.</p>
Regional and Municipal Taxes	Wealth tax, inheritance and gift tax, capital and property transfer tax as well as a proportion of income tax is raised by the Autonomous Community/Region in which the taxpayer is resident. Such taxes are included in the Tax rates shown.
Property Taxes	An annual real estate tax is payable to the local municipality. The tax is based upon a percentage of the cadastral value of the property. The tax rate varies from 0.4% and 1.1% on urban properties and 0.3% and 0.9% on rural properties. Municipalities may, within certain limits, increase or decrease these rates.

Property Taxes cont'd

If there is a change in land title a municipal tax ('land appreciation tax' or 'Plus Valia') is raised based upon the increase in value of the land since it was last sold. The rate is set by the Municipality and varies depending upon the cadastral value and the length of time since the preceding transfer.

Stamp Duty/Transfer Tax

The general rate of Stamp Duty/Transfer tax is 6%-7% (depending upon the Autonomous Community) on 'second hand' property transactions. Lower rates apply to the acquisition of other assets. Documentary stamp duty is typically 0.5%, or 1% for most regions.

Sales Tax (Value Added Tax)

Sales tax (IVA) of 16% is generally added to the sale price of goods. Some sales are exempt from sales tax or taxable at a reduced rate. With regard to 'new build' properties capable of being used as dwelling a sales tax of 7% is charged in place of a transfer tax.

Social Security Contributions

An employee is liable to pay social security contributions as a percentage of earnings. The rate is generally 6.35% of earnings. Any social security contributions made are deductible from taxable income.

Taxation of Expatriates Living in **Spain**

Expatriates living in Spain will be classified as resident or non-resident. An individual is considered resident if:

- They spend more than 183 days in Spanish territory in a calendar year or,
- Their principal place of business, professional or economic interest is based in Spain or,
- Their spouse and/or dependent children are habitually resident in Spanish territory (unless the individual is separated from their family or can prove tax residence elsewhere)

In Spain there is no concept of a part tax-year. An individual will be considered to be resident or non-resident for the whole tax year according to the above rules and taxed accordingly.

Income tax is raised in two parts – the majority is raised by the central government with a smaller percentage being raised at a regional level by the 'Autonomous Community' in which the individual is living. The 'Autonomous Communities' also control wealth tax and inheritance/gift tax rates. If the 'Autonomous Community' does not establish its own tax scales then a default tax scale is applied.

Income generated from employment for services rendered in a foreign country are tax exempt up to the limit of €60,101.21 (2006), provided that the work is performed for a company or entity non-resident in Spain or for a permanent establishment located in a foreign country and provided that a tax similar to the Spanish Personal Income Tax is applied in the territory where the work is performed. In addition, the territory must not be considered a 'tax haven' by the Spanish tax authorities.

International assignees moving to Spain, may, if certain conditions are met, choose to be taxed under the Special Taxation Regime for Expatriates described below.

Taxation of 'Non-Residents' Living in **Spain**

The taxation basis for expatriates living in Spain but who do not comply with the requirements to be deemed as resident in Spain is different to that described above. Non-residents are liable to Spanish Non-Residents Tax, as opposed to Spanish Personal Income Tax which is levied on residents.

Non-residents are only taxed on income and gains obtained or generated in a Spanish territory, compared to worldwide income and gains for residents. Non-residents may only file individual tax returns, unlike residents who may file joint returns in respect of a married couple.

The tax rates applicable to non-residents are different to those applicable to residents:

- 25% on general income including salary
- 15% in respect of interest and dividends
- 35% tax is applied to capital gains from immoveable property

Following a referral to the European Court of Justice Spain has introduced a tax reform bill which will amend these rates from 1st January 2007 in line with those applicable to residents.

A non-resident does not benefit from any tax free allowances/deductions. Certain exemptions may apply to non-residents, in particular, residents of other EU countries are normally not subject to Spanish tax on Spanish sourced interest income or capital gains realised on the sale of certain personal property.

With regard to capital gains arising from the transfer of real property the purchaser is required to withhold 5% of the agreed consideration. Such amount is paid to the Spanish fiscal authorities on account against the seller's potential liability to capital gains tax. In addition, dividends and interest are paid to non-residents net of withholding tax. The amount of tax withheld will depend on the terms of any Double Taxation Treaty with the payee's country of residence. Spain has negotiated over 50 Double Taxation Treaties.

Non-residents are subject to Wealth Tax at the same rates as residents but only in respect of the assets located in Spain and the rights that may be exercised on this country. No tax free allowance, relief or exemptions apply to non-residents. However, non-resident individuals can choose to be taxed as residents for wealth tax purposes. Inheritance tax only applies to non-residents in receipt of assets and or rights located in Spain.

Special Taxation Regime for Expatriates

From 1st January 2004 individuals who acquire tax residence in Spain as a result of their transfer to Spain may opt to pay Personal Income Tax or Non-Resident Income Tax in the tax period in which the change of residence takes place and in the following five tax periods when the following conditions are met:

- The taxpayer cannot be considered tax resident in Spain in the 10 years previous to their assignment to Spain.
- Their transfer to Spain results from an employment contract. The individual needs to have a local contract with a Spanish company. In case of group of companies, the employee can maintain the home country employment contract and be seconded to work for a Spanish entity.
- The work is effectively carried out in Spain. The work must be performed physically in Spain. This requirement will not be met if the employee works out of Spain and the income related to the duties performed out of Spain exceeds 15% of their annual employment income. In case of employees who work for other foreign entities of the group, the above percentage will be 30%.
- This work is for a company or entity resident in Spain or for a permanent establishment located in Spain of an entity not resident in Spanish territory.
- The earned income derived from the employment contract is not exempt from Non-Resident Income Tax.

In addition, an individual who opts for Non-Resident Income Tax shall be treated as a non-resident for Wealth Tax and Inheritance Tax purposes.

Expatriate Financial Planning

While, as a whole, the Spanish tax regime for non-residents is less onerous than the regime for residents, with only Spanish sourced income and gains being subject to tax. However, an expatriate should take care over the number of days spent in Spain during any tax year although under certain conditions some individuals can be taxed as Non-Residents even if they become Resident in Spain.

In addition, if you are an expatriate currently living in or considering moving to Spain, you should review your finances with a suitably qualified financial advisor. In particular, if you are about to move to Spain, you should plan and review your finances before making the move. You may wish to consider offshore investments, including offshore life products, in order to manage your tax liability and/or control when tax charges are made, as well as considering options available to you for estate planning.

Whilst the specific benefits of an offshore life product will depend upon your individual circumstances they do offer a number of potential benefits:

- Investments in an offshore life product grow virtually free of tax throughout the time the product is held, suffering only a small amount of irrecoverable withholding tax on investment funds located in certain countries.
- They allow you, in general, to manage when you take benefits and potentially to defer the benefits to a period that may be more advantageous to you from a taxation perspective.
- Offshore products often feature a strong range of the life company's own individual offshore funds and managed offshore funds specifically tailored to fit with the spread in clients' attitudes to risk. Offshore products also offer access to household name fund managers, including many international and specialist fund managers.
- An offshore product has the flexibility to adapt to changes in your individual circumstances, including changes in your residency status.
- Most companies offering offshore life products are subsidiaries of global financial services companies.
- The offshore life companies are regulated in first class jurisdictions which benefit from strong regulatory controls.

Your independent financial adviser can help you ensure that you maximise the financial benefits of your expatriate status and help you to assess if offshore life products are right for your individual circumstances.

This document has been prepared on behalf of the members of the Association of International Life Offices ("AILO") and relies on information and technical analysis provided by third party professionally qualified tax advisers. Whilst AILO has used its best endeavours in selecting its advisers to ensure the accuracy of the information contained in this document, AILO cannot be held responsible for any errors and omissions.

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