

PROPERTIES LOCATED IN SPAIN OWNED BY BRITISH RESIDENTS - TAXATION

I - SCOPE OF THIS NOTE

The scope of this note is to outline the tax liabilities before the Spanish Tax Authorities of those residing in Britain owning a plot of land and/or a property in Spain in accordance to the provisions made by both the Double Taxation treaty UK/Spain and the internal Spanish Law.

II - NON RESIDENT TAX

The Double Taxation treaty between the UK and Spain entered into in 2013 entitles the country of location of the immovable property to tax the income derived from its ownership, letting or other use (article 6).

Spain taxes ownership, letting and gain sale of residential properties according to the criteria below:

i. Ownership **of a plot of land that is at the owner's disposal:**

The Spanish tax authorities consider that the ownership of a plot of land is not taxable if the proprietor does not rent it out, but if the property is sold, tax will be due on any capital gain or any income derived from the sale.

ii. Ownership of a dwelling **that is at the owner's disposal:**

When a British citizen owns a dwelling the Spanish Tax authority (Agencia Tributaria) establishes a “tax fiction” by which it is considered that an empty property generates income for the owner. This “income” can be taxed.

The taxable income to take into account in order to calculate the tax coincides with the 1.1% or 2% of the cadastral value of the property (official value, similar to the Rateable Value in the UK), **depending on the circumstances. If the property has not been at the owner's disposal during the complete year, the taxable base would be reduced proportionally.**

iii. The residential property is rented out:

The Spanish fiscal regulation establishes a 20.00% fixed rate to apply to the rental income (rate for tax year 2015 and E. U. tax resident). Since January 2010, and for residents within the European Union alone, the taxable base coincides with the net income received from rent. As a consequence, costs and expenses arising from the maintenance of the property can be deducted, such as IBI tax, community costs, maintenance expenses, the interest paid on loans for the acquisition of the property, etc.

The tax liability will generally be determined and paid on a quarterly basis.

III - IBI TAX (EQUIVALENT TO COUNCIL TAX)

In addition to the previous taxes, non resident individuals, as well as Spanish resident individuals, are liable to pay IBI tax (Impuesto sobre Bienes Inmuebles), which is the Spanish **equivalent to the UK's Council Tax**. This is a tax levied and calculated by the Council under which the real estate is located and its calculation is based in the cadastral value of the property.

The tax is payable on an annual basis.

IV - REFUSE COLLECTION TAX

The indications made above regarding IBI tax apply to Refuse Collection tax, however, it has to be noted that not all the Spanish Council have established a Refuse Collection Tax and that the tax liability is usually less onerous than the IBI tax liability. Different methods are applied to calculate the tax liability, depending on each Council (i.e. surface of the property, cadastral value, etc).

V - WEALTH TAX

According to Article 21 of the Double Taxation treaty UK/Spain, capital represented by immovable properties owned by a resident in the UK and situated in Spain can be taxed in the country where the property is located.

Accordingly, the non resident individual owning properties in Spain will have to submit a Spanish Wealth tax return provided if:

- There is tax liability to be paid after the calculations, OR
- The combined valuation of the immovable properties located in Spain exceeds 2,000,000 Euros, even if no tax liability has to be paid.

The tax liability will be determined by applying a sliding scale on the taxable base for those immovable assets with a combined total value in excess of 700,000 Euros (general allowance). Although further allowances may apply depending on the circumstances, it would be advisable for the non resident with properties in Spain valued over the indicated amount to seek qualified financial advice.

The higher value of the following three will be taken into account and used for the purposes of tax calculations:

- Registered value of the property(ies)

- Purchase price of the property(ies)
- Valuation determined by the Spanish Tax Authorities (if any)

Wealth tax is payable on a yearly basis.

It is expected that this Wealth tax will not be imposed from 2016 onwards.

VI - DOUBLE TAXATION RELIEF

The taxes paid in Spain could be considered as a tax credit against UK tax in accordance with the provisions made by article 22 of the Double Taxation treaty UK/Spain.