

TAX ADVICE

Non-residents with real estate

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We believe that many people with a second home in Spain lack a proper approach and comprehension of Spanish tax obligations regarding the effective ownership of their property.

Non-compliance always means problems, either in the short term or the long term, and accurately complying does not necessarily mean facing huge payments but reasonable ones which are compensated by the knowledge that you are doing right for you and ultimately, your heirs.

Non tax residents in Spain, both individuals and entities, and owners of real estate in Spanish territory are liable every year for Non Resident Income Tax (hereafter IRNR, as per the Spanish acronym). The following sources of income are subject to IRNR:

- Effective income derived from renting of properties located in Spain or rights related to those directly or indirectly obtained.
- Estimated income attributed to individual taxpayers and owners of properties located in Spanish territory.
- Capital gains derived directly or indirectly from real estate.

The income subject to taxation will be determined depending on the use or destination that has been assigned to the property, the legal personality of

the owner (physical or juridical) and the nature of the event to be taxed (rental income, second home use or eventual capital gain on a sale).

1.1. Income from the renting/leasing of real estate located in Spanish territory.

The income obtained from leasing or renting to third parties of real estate in Spain is subject to IRNR, without the possibility to deduct any expenses.

However, in the case of IRNR taxpayers, residents in a member state of the European Union – and from January 1, 2015, also Iceland and Norway – the expenses may be deducted.

With regards to the applicable tax rate for the IRNR, we will detail the existing rates for the years 2015 and 2016, and it is worth pointing out that a reduced rate is applied to those taxpayers in a member state of the EU (table 1).

1.2. Income from real estate for the personal use of its owners: income imputation.

The owners must declare the amounts derived from the ownership of real estate located in Spanish territory that have not been leased or transferred to third parties, which correspond to the result of applying the following percentages to the catastral value:

- On a general basis - 2 per cent.
- In case of real estate with cadastral values reviewed from January 1, 1994 - 1.1 per cent.

This income is accrued once a year. Also, the owner must proceed to file the proportional share of the income when, throughout the year, the



property has been transferred or leased (table 2). tax shall consist of the difference between the acquisition

↑ **Many home owners in Spain do not fully understand the tax obligations regarding property**

Table 1. TAX RATE			
2015		2016	
Residents of EU, Iceland and Norway	Rest of taxpayers	Residents of EU, Iceland and Norway	Rest of taxpayers
Until 11/07/2015: 20% From 12/07/2015: 19.50%	24%	19%	24%

Table 2. TAX RATE			
2015		2016	
Residents of EU, Iceland and Norway	Rest of taxpayers	Residents of EU, Iceland and Norway	Rest of taxpayers
19.50%	24%	19%	24%

Table 3. TAX RATE		
2015		2016
Until July 11th	From July 12th	All taxpayers
20%	19.5%	19%

1.3. Capital gains from the transfer of real estate.

Capital gains obtained from properties located in Spanish territory are subject to IRNR. The capital gain is subject to

value and the transfer value of the property.

It should be noted that from January 1, 2015, the coefficients used to update the acquisition value of the property in order

member state of the EU can apply the exemption for reinvestment in the main residence, applicable to capital gains accrued from January 1, 2015.

The tax rate applicable on the basis of the generated capital gains (table 3).

In the case of a transfer of property by non-residents, the acquirer has to practice withholding on the agreed consideration. The acquirer is obliged to withhold and pay 3 per cent of the price in the concept of withholding or payment on account of the IRNR that corresponds to the non-resident.

2. Wealth tax

In general, the Wealth Tax is to be paid annually, to assess the net wealth that the individuals have by December 31 of each year. It is regulated by the Law 19/1991 of June 6, of the Wealth Tax.

Non-residents in Spain will pay tax for the assets and rights that they have when these are located, practised or fulfilled in Spanish territory (real tax).

Those taxpayers, whose tax quote results in an amount to pay, are required to submit the declaration or, when these circumstances are not given, when the value of their assets or rights is superior to €2,000,000. The tax quote will result in an amount to pay by taxing the difference between value of assets and liabilities, with an exemption limit of €700,000. ■

to determine the capital gains generated have been removed. However, a transitional regime in the application of those coefficients for the case of capital gains from transfers of assets acquired prior to December 31, 1994, is applied.

It is important to mention that, under certain requirements and limitations, the capital gains are exempt up to 50 per cent, when the same are derived from the sale of urban real estate located in Spanish territory that had been acquired from May 12, 2012, until December 31, 2012.

We should also highlight the possibility that taxpayers in a

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