despacho jurídico

PERSONAL TAXES IN SPAIN

Personal Income Tax (IRPF): national

Form 100 and related (104, 105 for returns).
Filing period: January 1 - July 1 of the following year (5 days earlier if you have taxes due) For residents only: This is the standard "IRPF" income tax that most Spaniards pay.

If you are a UK citizen, you must complete form FD9 to apply for UK income tax exemption. By completing this form you are consenting to the Spanish Revenue, certifying to HMRC that you are resident in Spain for the purposes of Spanish tax.

Non-residents Income Tax (IRNR): national

For non-residents only: Most non-residents are required to file income tax because they own a property (see article on Taxes for Property Owners), though you may also have to file because a Spanish company has paid you dividends, or because you worked for a few months during the year in Spain, etc.

Report of foreign assets (Form 720): national

Filing period: January 1 - March 31 of the following year.
For residents: You are required to provide to the Spanish tax authorities information about any offshore accounts, offshore investments, and real estate located abroad with a value over 50,000€.

Inheritance and Gift Tax: regional

This tax applies to the beneficiaries of the inheritance or gift. The tax is on assets received with a value over 8000€. Even if the beneficiaries are not residents of Spain, they must pay this tax when the assets or rights are located in Spain. The tax rate starts at 7.65% and rises to 34% for assets with a value above 815,000€. If the beneficiary is a child (under age 18) of the deceased, then the tax rate on the assets is reduced to 5%.

VAT Tax (IVA): national

The Canary Islands, Ceuta and Melilla have a different rate.
The standard rate is 21%. Essentials (food, water, medicine) have a reduced rate. If you're a tourist, you can get a refund of this tax at a booth in the airport before you leave Spain by showing your receipts for over 90€ (including IVA). The 90€ doesn't have to refer to a single item but it does have to be on a single receipt.

Transfer Tax and Stamp Duty (impuesto de transmisiones patrimoniales y actos jurídicos documentados): regional

Filing period: Within 30 days of the transaction.
This tax is for certain real estate and commercial transactions. It is paid by the purchaser or the beneficiary of the transaction. The rate starts at 0.5% (for commercial activities) and rises to 6% (for real estate transactions).

Property Tax (IBI): local

Filing period: Varies depending on the municipality, but normally between September and November of each year.
Each year, the municipality issues a property tax payment slip for all properties. The tax is usually between .5% and 1.1% of the cadastral value (valor catastral) of your property, which is roughly 20 times lower than the market value.

Plusvalía: local

Paid when you sell your property.
This is essentially a tax on the appreciated cadastral value of a property. It is paid by the seller. For more information, see our article on property taxes

Municipal Tax (basura): local

Filing period: Varies depending on the municipality. This varies depending on where you live. Usually assessed per house or building. Sometimes the tax is combined with water consumption.

Motor Vehicle Tax (impuesto sobre vehículos de motor): local
Filing period: Varies depending on the municipality, but normally between September and November of each year.

This tax is based on the age and the power of the vehicle. The larger the city is, the higher the tax. For an average car, it is about 60€ a year.

Taxes for Property Owners in Spain

Article adapted from the Agencia Tributaria's site for non-residents.

The tax requirements are as follows:

- If you are a resident, you are subject to personal income tax (including capital gains tax) and property tax(IBI).
- If you are non-resident, you are subject to personal income tax (including capital gains tax), property tax, plus an additional non-resident property tax. Personal income tax for non-residents only represents income from the property; income from salary is declared where you are a resident. If the property is for your own use, you must pay a certain percentage of your property; if the property is rented, you declare the amount you have received in rent.

Non-residents: Personal income tax

If the property is owned by a married couple or by various individuals, each person is treated as a separate taxpayer and must file returns separately.

Depending on what the property is used for, the income subject to taxation is as follows:

- **Property for own use**

Form 210

Filing period: January 1 - December 31 of the following year. (Form 214 is the single form for declaring both property tax and income tax, with the filing period any time during the following year.)

www.atdjuridico.com e-mail: atorres@atdjuridico.com

Alameda de Colón, 12, Of. 4
29001 / Málaga
Telf.: 952 213 817 Fax: 952 222 332

Avenida El Limonar 11 Bajo
29532 MOLLINA /Málaga
Telf./Fax: 952 74 14 13

The income to be declared is a percentage of the cadastral value of the property, as indicated on your property tax receipt. It is 2%, or 1.1% if the property's cadastral value was revised after January 1, 1994. The tax rate is then 24.75% of this "income". If you didn't own the property for the entire year or if it was rented for part of the year, then you would prorate the amount accordingly. Note that the rules regarding this tax were modified significantly on March 1, 2004.

A non-resident whose only taxable property in Spain is a dwelling fundamentally for own use may elect to use a single form for declaring both property tax and personal income tax on the estimated income from the use of that dwelling.

- **Property used for rental**

Form 210 for ordinary return, using general section 210-A and indicating income type 01.

Filing period for Form 210: one month after the date on which the rent is due.

Form 215 for collective return. Also indicate income type 01. Filing period for Form 215 (filed for each quarter): In the first 20 days of the month following the end of the quarter.

The income to be declared in this case is the total amount collected from the tenant, without deducting any expenses. The tax rate is 24.75% of this income.

This income is chargeable when it is claimable from the tenant or when it is collected (if earlier). Each rent due is taxed separately and, consequently, a return must be filed for each rent due. Or, collective returns may be filed which may include various chargeable income of one or more taxpayers falling within a calendar quarter.

A tax form must be sent after the termination of every rental agreement, in addition to the yearly declaration of income.

Residents and non-residents: Capital gains on the sale of property Form 212. When the property being transferred is owned jointly by a married couple in which both spouses are non-residents, a single return may be filed. Filing period: three months from the end of the period in which the purchaser of the property must pay the withholding tax (which is one month from the date of the sale).

Capital gains on the sale of property are taxable income that must appear on your income tax form for both residents and non-residents. This income is chargeable when the capital gain takes place. The gain is generally the difference between the sale and purchase values. The purchase value is the purchase amount plus the expenses and taxes paid that were involved in the purchase. The sale value is the sale amount minus the expenses and taxes that were paid.

If the property has been rented, the purchase amount must be reduced by the amount of depreciation corresponding to the rental period. The depreciation is also updated on the basis of the year in question.

However, if the property being sold was acquired before December 31, 1994, this capital gain gets reduced by 11.11% per year for each year (above two) during which the asset was held. This holding period is calculated by taking the number of years between the date of acquisition and December 31, 1996 and rounding up.

Withholding tax: If the seller is non-resident, then the buyer must withhold 5% of the agreed price (regardless of whether the buyer is resident or not), using Form 211 to pay this 5% to the tax office. The buyer then provides the non-resident seller with a copy of the form, so that the seller may deduct this withholding from the tax payable in the return declaring the capital gain. If the amount withheld exceeds tax payable, the excess is refundable. If the tax withheld is not paid, the liability for the tax is attached to the property.

Sample non-resident tax owed for a property sold	
Purchase price	83,000€
Purchase costs	7000€
Purchase value	90,000€
Adjustment rate for inflation (sample for 2002)	1.0612
Purchase value adjusted	95,508€

Alameda de Colón, 12, Of. 4
29001 / Málaga
Telf.: 952 213 817 Fax: 952 222 332

Avenida El Limonar 11 Bajo
29532 MOLLINA /Málaga
Telf./Fax: 952 74 14 13

Sales price	150,000€
Sales costs	1000€
Sales value	151,000€
Capital gain	55,492€
Non-resident tax rate	35%
Tax on capital gain	19,422€
Withholding tax (5% of sales price) (Form 211)	7500€
Tax payment (Form 212)	11,922€

Non-residents: Additional property tax

Form 714, the same as for resident taxpayers
Filing period: May 1 - June 20 of the following year.

Non-residents must file this tax form if they own property in Spain on December 31 of each year, regardless of the value of the property. The tax is calculated based on the highest of the following three values:

- The cadastral value, as reflected in the property tax receipt for the year to which the return refers.
- The value assessed by the Spanish Tax Office for purposes of other taxes.
- The purchase price.

The taxable amount is based on the value plus any charges or liens on the property minus the mortgage the property has, if any.

Each individual must file a separate return; if a property is owned by a married couple or by various persons, each one of them must file a single return for the portion of the house owned (usually 50%).

Taxes for Corporate Property Owners in Spain

Form 220. Also Form 303 for VAT and Form 111 for withholding tax
Filing period: January 1 - June 30 of the following year.

The corporate tax rate is 30%. All expenses for the property are deductible, including utilities, renovation work, management fees, and property taxes.

There are accounting obligations involved in maintaining an S.L.

www.atdjuridico.com e-mail: atorres@atdjuridico.com

Alameda de Colón, 12, Of. 4
29001 / Málaga
Telf.: 952 213 817 Fax: 952 222 332

Avenida El Limonar 11 Bajo
29532 MOLLINA /Málaga
Telf./Fax: 952 74 14 13

Shareholders and directors of the SL may be residents or non-residents.

If any future litigation is directed at the individual, liability cannot involve the property because it is the SL that owns the property, not the individual.

As a corporation, the capital gains do not have to leave the company to be taxed at 30%. They can be left as "reserves" for the company. There are five years in which to pay taxes on that capital gain, or to spend that money on another business (or house).

How do I determine if I'm a non-resident for tax purposes?

Assuming you don't have Spanish citizenship, you're a resident if either:

- You're physically present in Spain for more than 183 days (including sporadic absences).
- The main base of your professional activities or economic interests are in Spain.
- Your spouse and children reside in Spain.

To avoid double taxation, how can I prove that I'm tax-resident in a country?

Tax resident status can be accredited by presenting a residence certificate issued by the tax authorities from that country. The validity of such certificates is one year.

If I'm non-resident and have earnings in Spain, should I file taxes in Spain?

In this situation, it's usually better to file taxes in Spain. Assuming there is a double taxation treaty between Spain and your country of residence, you can then choose in which country you want to declare these earnings. In most cases, your earnings won't be taxable in Spain because you are non-resident.

What happens if I'm a resident of both Spain and another country, according to the tax rules of both countries?

In these cases the international agreements, if any, will apply. These agreements describe the tax rules that apply to avoid an individual to be considered resident in both countries.

My company is assigning to UK nationals to Spain to work there for 18 months. Will they liable for taxes in Spain?

Yes, the employees will need to file resident income tax forms in Spain, and report their earnings. Whether they pay taxes in Spain or the UK based on these earnings depends on their situation. Note that the purpose of the double taxation agreement is to avoid paying twice. It does not mean you can avoid paying at all, nor are you totally free to decide which country is the better choice. That may be considered fraud.

As a Spanish resident, do I have to declare income earned outside Spain?

Yes, though it may be difficult for the Spanish tax authorities to find out about such income. Note that most countries have agreements with Spain to avoid double taxation.

Wealth and transaction taxes

Inheritance and gift taxes are levied on behalf of the 17 autonomous regions, which set their own tax rates within certain limits. If they do not, national limits apply. A tax on wealth transfers applies to rights and assets located in Spain. For the transfer of real estate, this tax is levied at different rates depending on the Autonomous Community where the land is located. If no specific rate is set, a 7% rate is levied on the value of real estate. A 100% tax rebate has been introduced in the wealth tax in 2008.

Local taxes

Regional governments receive a significant share of total tax revenue (33% of personal income tax; 35% of VAT; 40% of excise duties on hydrocarbons, tobacco, beer and alcohol; 100% of excise duties on electricity and car registration). Indirect tax revenues are transferred according to a territorial

www.atdjuridico.com e-mail: atorres@atdjuridico.com

Alameda de Colón, 12, Of. 4
29001 / Málaga
Telf.: 952 213 817 Fax: 952 222 332

Avenida El Limonar 11 Bajo
29532 MOLLINA /Málaga
Telf./Fax: 952 74 14 13

consumption index. Statutory personal income tax rates can be modified by the regional governments provided the structure retains progression and the number of tax brackets is unchanged. Taxes on inheritance and gift tax, registration duties and fees on lotteries and gambling are wholly assigned to territorial governments with almost complete jurisdictional powers. If the estimated expenditure exceeds potential revenues, the regional government receives a compensatory transfer from the central government. Two out of the 17 Comunidades Autónomas (Basque Country and Navarra) have a special tax regime and apply, in particular, their own personal income and corporate income taxes. For the others, fiscal revenue sharing forms the object of multi-annual agreements. The financing system of the autonomous communities (accepted only by 11) of 1997–2001 was extended to the 2002–2007 period; during 2008–2009 the system has been provisionally applied until conclusion of a new financing agreement in the Consejo de Política Fiscal y Financiera (a high-level body in charge of the decision-making process regarding financing issues and representing all the Autonomous Regions). Afterwards, the LOFCA (Ley Orgánica de Financiación de las Comunidades Autónomas) will also be reformed.

Social Contribution

Each professional category has minimum and maximum contribution bases. For 2009 the maximum monthly base is 3166€; the minimum monthly base varies depending on the type of work. The total rate for the general regime (including general risk, unemployment insurance and professional education training) is 6.4% for the employees and 29.9% for employers.

Taxation Trends in Spain

Article adapted from Eurostat and the European Commission Taxation and Customs Union (2009)

Structure and development of tax revenues

The total tax-to-GDP ratio was 37.1% in 2007, 0.4 percentage points lower than the EU-27 arithmetic average; this ratio is in the low range for the euro area. Spain collects revenues almost equally from direct taxes, social contributions and indirect taxes (respectively 13.4, 12.2 and 12.0% GDP). Spain has the third-lowest indirect taxes collection in percentage of GDP in the EU (roughly 2.3 percentage points lower than the EU-27 average). This can partly be attributed to a standard VAT rate (21%), and to two reduced rates (4% and 10%) that apply to a sizeable share of the tax base. Direct taxes and social contributions are respectively 1.0 and 1.2 percentage point higher than the EU-27 average. Spain's buoyant economic activity in the last years has boosted tax revenues. Personal income taxes have soared to 7.7 % of GDP after a trough in 2004 at 6.4%. However, the most noticeable change has been the increase in corporate income tax receipts which reached 4.8% of GDP in 2007 (up from 2.9% in 2001 and 1.9% in 1995). This is the fifth highest ratio in the EU. Social security contributions have remained stable on average over the period, with the lion's share of the burden resting on employers.

Spain has a quasi-federal tax system, with three levels of government. The central government and the social security funds collect the majority of the revenues (respectively 38.3% and 32.1% of total taxes). However the financing system of the regions (Comunidades Autónomas) was reformed in 1997, leading to a marked increase in regional taxes as a percentage of GDP. The effect, visible already from 1997 appears more clearly starting from 2002 as the State government share more than doubled to reach the current level of 8.0% of the GDP.

Spain used to be a low-tax country, but the overall tax burden perceptibly increased between 2000 and 2007 (+ 3.2 percentage points) to come closer to the EU-27 average. Substantial fiscal consolidation was achieved since the mid-1990s, with a budget deficit declining particularly rapidly. Until 2007, tax revenues were boosted by increased VAT and CIT receipts, thanks to buoyant economic growth.

Taxation of consumption, labour and capital; environmental taxation

The ratio of consumption taxes in proportion to GDP (9.5%) is the lowest in the EU-27, 2.9% lower than the EU-27 average. After an increasing trend throughout the 2001–2006 period, the implicit tax rate on consumption is back to 15.9% and remains the second-lowest in the Union after Greece as of 2007. This development mimics the one of VAT collection in percentage of GDP.

The ratio of taxes on labour income to GDP stood at 16.9% in 2007, just 0.3 percentage points below the EU-27 average (17.2%). However, throughout the years 2000–2007, Spain has displayed an average implicit tax rate (ITR) on labour below the EU-27 and especially the euro area average, although this difference has decreased from slightly more than seven percentage points in 2000 to 2.8% in 2007. The lowest level of the ITR was recorded in 1999 (28.3%) as a consequence of the personal income tax reform. Subsequent increases in the ITR on labour, as seen from 2000 to 2007, could be attributed to a noticeable increase in taxable wages and salaries as a result of the strong job creation process observed in the last few years. The ITR on labour has risen again by 0.8% in 2007 to 31.6%.

The ratio of capital taxes on GDP has increased substantially during recent years (+ 2.5% in the 2003–2007 period). Revenue from capital taxation is well above the EU-27 average (11.2% GDP vs. 8.0%) and the implicit tax rate on capital shows an even more dramatic trend. This can be attributed to the strong increase in tax revenues raised on capital income of corporations (+ 1.7% of GDP in the period, an increase of more than 50%), partly owing to strong growth, and is also reflected in the implicit tax rate on corporate income, which soared over the recent period. Similarly, the implicit tax rate on capital income of households and self-employed has been rising since 2003 to reach 14.7%. Environmental taxation is the lowest in the EU-27 (1.8% of GDP). As in the majority of Member States, it is mostly concentrated on energy (1.4% of GDP).

Current topics and prospects; policy orientation

In 2007 and 2008, the personal income and corporate income tax systems have undergone new significant reforms. The reforms were aimed at simplifying and increasing the neutrality of the tax system, and strengthening incentives for work, saving, risk-taking and investment. Throughout 2008 and 2009, several measures have been taken in relation with the global financial and economic crisis.