

## **Income Tax In Spain**

This summary analyses the general principles governing Spanish taxation of individuals both resident and non-resident in Spanish territory. In this respect, it should be noted that the analysis of the particular tax provisions that might be applicable in the different Spanish autonomous communities, and especially in the Basque Country, Navarre and the Canary Islands, are outside its scope.

### **Who is considered as a Spanish personal income taxpayer?**

**The following are personal income taxpayers:**

- Individuals who have their habitual residence in Spanish territory.
- Individuals who have their habitual residence abroad due to a consular or diplomatic status, to their condition of holders of official post or employment of the Spanish State or public employees serving as such abroad or those holding Spanish nationality demonstrate their new tax residence in a country or territory legally classified as a tax haven.

### **Habitual residence in Spanish territory**

The taxpayer shall be considered to have their habitual residence in Spanish territory when any of the following circumstances exist:

- They are in Spanish territory for more than 183 days in the calendar year.
- The main nucleus or base of their business activities or interests is, directly or indirectly, situated therein.

In order to determine the period spent in Spanish territory, sporadic absences shall be computed unless the taxpayer demonstrates their tax residence in another country.

Unless there is proof to the contrary, the taxpayer shall be deemed to have their habitual residence in Spanish territory when their spouse, provided they are not legally separated, and underage children who depend on them habitually reside in Spain.

The application of these provisions depends on the contents of the international double tax treaties.

### **Who is considered as a non-resident taxpayer?**

Very simply, all individuals that are non-resident in Spanish under Spanish tax Law and obtain income therein, unless they are personal income taxpayers.

A non-resident may be liable to Spanish income tax on all income from a Spanish source.

For example:

- Rental income from a Spanish property
- Income from business activities
- Earned income when derived directly or indirectly from work performed in Spanish territory
- Interests, dividends and royalties and other returns on moveable property

Such liability may be reduced and even eliminated due to the application of the provisions contained in the international tax treaties.

### **Special regime for EU domiciled or residents**

Non-resident taxpayers who are resident in a EU Member State may opt to be taxed as a resident if it is demonstrated that their habitual domicile or residence is located in another EU country and that at least 75% of their total income during the year was obtained as salary income or business income in Spain.

### **What is the personal income tax base?**

The tax base is the taxpayer's disposable income, which expresses their economic capacity.

Taxable income is composed of the following items:

- Earned income (i.e., salaries, pensions, etc.)
- Return on capital (both in moveable property and Real Estate)
- Business earnings
- Capital gains and losses

Various allowances and reductions are applied to the annual disposable income to arrive at the net taxable income. Tax is then calculated at progressive rates varying from 15% to a top rate of 45% for taxable income in excess of €46.818 (2005 tax year figures).

- For the rates applicable to inbound employees posted to Spain who elect to be taxed under the new expatriates regime see the INFORMATION page on [New Expatriates Regime](#).

### **Reductions in the tax base**

There are several tax-free allowances for taxpayers aged over 65, for dependent relatives living with the taxpayer whose income is below a specific threshold.

### **Allowances and tax credits**

The main allowances and tax credits in force are the following:

- Housing tax credit: a credit of 15% of the amount invested in acquiring or refurbishing the taxpayer's habitual residence is granted; the percentage is applied to the investment made, the purchase expenses and the interest and expenses paid on debt, and the amounts deposited in home-purchasing saving accounts an used for the acquisition of the habitual residence.
- Tax credit for income obtained in Ceuta and Melilla
- Tax credits for economic activities
- Tax credit for donations to certain entities
- Tax credit for investment in and expenditure on assets of cultural interest

### **Obligation to declare and pay the tax debt**

Taxpayers shall be obliged to file and sign a personal income tax return usually between May 1st and June 30th of the following tax year. For example, the tax return declaration due in May/June 2007 covers the period 1 January to 31 December 2006.

The taxpayers shall self assess their tax debt and must complete all the information pertinent to them contained on the returns, enclose the documents and support established and file them at the places determined by the Minister of Economy and Finance.

### **What is the position of non-residents?**

Income obtained by non-resident individuals shall be taxed on each individual total or partial accrual of income subject to tax. Tax shall be payable on each individual operation, which means no gains may be offset by losses. In general, the tax base shall be the gross tax base due, i.e. without deduction of any expenses.

In general, the applicable rate is 25% but there specific tax rates for dividends, pensions, royalties, capital gains, etc.

Non-resident taxpayers shall not be required to file the corresponding tax return when tax has already been withheld on income obtained.

If the non-resident taxpayer is resident in a country with a tax treaty with Spain then it is likely that he will receive a credit against the tax due in his home country for tax paid in Spain.

### **Non-compliance consequences**

The failure to pay the tax may be penalized with fines ranging from 50% to 150% of the outstanding tax debt plus interest.

In the case of late payments an additional surcharge ranging between 5% and 20% of the outstanding tax debt plus interest is likely to be imposed