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SPAIN: An Overview

Spanish Tax Planning for International Private Wealth Clients: A 2026/27 Outlook

As has been the case in the current Spanish parliamentary term, with a government formed by a coalition of the left, the high tax on the affluent approach continues to shape Spanish personal tax policies.

In terms of the basics of Spanish personal tax for 2026, Spanish tax resident individuals remain taxed on a worldwide basis. The marginal income tax rates for regular and investment income and gains remain around 50% (depending on the region of residence) and 30% respectively.

An individual's exposure to Spanish personal taxes depends on their tax residence status, as determined by the Spanish domestic law and the provisions of any relevant Double Tax Treaty. Tax residence tests under Spanish law consider:

- presence in Spain;
- direct and indirect economic ties to Spain; and/or
- close family ties to Spain.

Tie break tests under Double Tax Treaties largely adopt the OECD model. As a noteworthy development, the Spanish tax administration is actively *challenging the application of Treaty benefits* (including the applicability of tie break tests for the determination of tax residence) to individual taxpayers tax resident in jurisdictions *subject to personal taxes under special impatriation regimes*.

Individuals who are tax resident in Spain in any given calendar year are generally taxed on a worldwide basis for income, wealth and inheritance and gift tax purposes. Individuals who are non-tax resident in Spain in any given calendar year are taxed on a Spanish situs/source basis.

Individual tax residence remains a target area in Spanish tax inspections; the Spanish tax administration is actively using Big Data, AI and Automatic Exchange of Information resources, often resulting in large tax assessment and lengthy court cases, sometimes under criminal charges.

Individuals, including settlors, grantors or beneficiaries of trusts or foundations, who declare themselves non-tax resident in Spain but spend material time in this country (even if below 183 days), have a substantial Spanish asset base or activities (directly or indirectly), are "tax nomads", declare themselves as tax resident in certain favourable jurisdictions, or have been reported as tax resident under CRS, FATCA or other, are strongly recommended to examine their tax residence status.

Non-compliant taxpayers or those applying untenable technical positions (either as regards their tax residence status or in other situations, eg vested beneficiaries of trusts who fail to disclose their interests in their Spanish returns) are strongly encouraged to consider filing remedial returns to avoid potential Spanish criminal charges.

Potentially qualifying individuals relocating to Spain usually consider doing so under the *Spanish Special Impatriation Regime*. This is a six-year regime available to employees or directors of a Spanish company. Qualifying individuals limit their Spanish personal income tax liability to Spanish source income and gains, plus employment/entrepreneurial income worldwide. Spanish wealth tax and solidarity tax is limited to net Spanish situs assets and there is no obligation to file 720 Information returns.

Under current provisions, availability of the regime is extended to remote workers, certain entrepreneurs and high skilled professionals. Individuals appointed as directors of Spanish companies carrying on a trade or business also qualify for the regime even if they are full owners of these companies but subject to certain and strict requirements. Spouses and children under 25 years of age may also benefit from the regime as part of a family group, subject to a number of requirements.

As a further incentive, the Madrid regional income tax regulations contain substantial personal income tax reductions to new impatriates resident in Madrid, essentially requiring certain passive portfolio investments (not necessarily geographically connected to Madrid or Spain). The practical effect of these provisions on a best case scenario would cap the marginal rate of income tax on regular income at 24.5%.

However, the Special Impatriation Regime has become one of the main target areas for review by the Spanish tax inspection. The Spanish tax authorities are often probing cases testing the overall arrangements, verifying the reality and substance of the underlying business, the employment/director services and the actual roles of the individuals applying the regime. As failure to qualify for the regime entails personal taxation on a worldwide basis, assessments raised are substantial and may end up in criminal charges. In the current context, taxpayers under this regime are strongly recommended to review their arrangements and test their strength vis-à-vis current inspection practices.

Wealth tax continues to apply in 2026. Under general rules, the marginal rate continues at 3.5% for individuals with a net asset value in excess of EUR10.7 million (with a EUR700,000 tax free allowance). This tax is fully transferred to the Spanish regions, so situations vary significantly. Exposure to this tax may be reduced significantly with tax planning.

The *solidarity tax* enacted in 2022 continues to apply. In practice, this tax applies to Spanish tax resident individuals with taxable net worth in excess of EUR3.7 million. This tax coexists with the existing regional *wealth tax* – wealth tax paid in the region of tax residence is creditable against the national solidarity tax. The interaction between both taxes is complex, so careful planning is required for an efficient overall strategy.

Potential tax planning mechanisms as regards wealth tax and solidarity tax include income limitation strategies to maximise the application of existing capping rules, the application of business property relief as well as shifting wealth via intergenerational gifts.

As regards *taxation of Spanish situs real estate with non-Spanish tax resident ultimate beneficial owners (UBOs)*, foreign wrappers of Spanish situs properties remain taxable for Spanish wealth tax/solidarity tax purposes; in situations where foreign wrappers also hold non-Spanish situs assets, lack of planning may result in bringing non-Spanish situs assets into the scope of Spanish wealth tax/solidarity tax – planning is therefore highly recommended.

Spanish situs real estate held through a corporate wrapper for the private use of its UBO is another main target area for review by the Spanish tax inspection by application of transfer pricing provisions. This may result in substantial assessments for deemed rental income/deemed dividends under aggressive pricing basis. Taxpayers are strongly encouraged to review their positions and put in place reasonable rental arrangements compliant with market practices.

As for *inheritance and gift tax*, regional benefits on spousal and close family free transfers continue to apply in most regions to cross-border estates and gifts, both EU and non-EU. Mid-term, these may be substantially curtailed, reintroducing a full inheritance and gift tax, potentially with rates that might be in the region of 34%.

In this scenario, taxpayers with interests or ties to Spain are strongly advised to perform an inheritance and gift tax review to make use of current exemptions. Tax planning possibilities include free transfers of bare ownership of assets, retaining a legal right of use, shifting a significant portion of the family's wealth to the next generation. Planning for the best legal way to allocate and manage rights post-transfer is of critical importance.

International private clients should therefore undertake a review of their Spanish personal tax situation in view of the current areas of concern and potential personal tax planning strategies.

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