



**DAVIES ABOGADOS**  
solicitors/barristers

## **LEGAL CORNER:**

By Michael Davies .

Abogado

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**BEING A RESIDENT  
CONSIDERABLE  
GAINS TAX.**

**OF SPAIN OR NOT CAN MAKE A  
DIFFERENCE TO CAPITAL**

*Avoid a nasty surprise at the  
notary*

**RESIDENCY OF  
HAVE ANYTHING  
AS A NON RESIDENT  
WILL BE HELD BACK.**

**HAVING WHAT EVERYONE  
CALLS THE RESIDENCE  
CERTIFICATE ISSUED  
BY THE POLICE EVERY  
FIVE YEARS IS NOT  
PROOF OF TAX  
SPAIN AND IF YOU DO NOT  
ELSE YOU WILL BE TREATED  
AND 3% OF THE SALES PRICE**

Q. I have sold my house. I was under the impression that I was a resident and that the 3% retention for non residents would not be applicable, but the notary said that my residence certificate was not proof of residency and that he had to treat me as a non



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resident which means that 3% of the sales price was retained and paid into the tax office. How can the resident certificate not be proof of residency?

A. What the notary is saying is correct. It is a common nasty surprise at the notary lately suffered by sellers that are not getting the correct advice prior to selling. The new resident certificates with ought photograph issued by the police do not state you are a tax resident of Spain. What it says is that you are a resident of Europe. To be able to be treated as a tax resident of Spain at the moment of sale, you need to provide the notary with a certificate issued by the tax office in Spain stating that they consider you a tax resident of Spain. This needs to be requested in advance of going to the notary by your solicitor or yourself to avoid the 3% retention. Some notaries will also accept as proof of residency your Spanish tax returns.

If you are thinking of selling, it is important to find out from the tax office well in advance if your status is that of a resident or non resident, and the certificate issued by them needs to be taken to the notary the day of signature.

Michael Davies  
Abogado

Member 1748 of Almería Law Society.

Member 67228 of Madrid Law society.

Ex. Honorary British Consul to Almería.