



DAVIES ABOGADOS
solicitors/barristers

LEGAL CORNER:

By Michael Davies .

Abogado/Solicitor.

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Q. I have purchased a property recently, and now the tax authorities have sent me a letter asking me to pay more transfer tax. Is this correct?

A. What you have received is a “complementaria”. In other words the tax authorities consider you have undervalued the purchase and want you to pay more tax. This is a shameful practice by the authorities which is extremely difficult to explain to clients with ought embarrassment. The government needs to be taken to court in relation to this practice, but we have difficulty recommending this at the moment due to the uncertain outcome and up front expenses.

TRANSFER TAX: THE PROBLEM WITH THE BENCHMARK VALUES.

(Please note that this exact same article could be written in relation to INHERITANCE TAX as the benchmarks used are exactly the same).

If you purchase a second hand property, it is subject to transfer tax at the rate of 8%.

During the days of the property boom with people undervaluing their title deeds quite frequently, the authorities decided to establish minimum benchmark values below which they would consider the value declared on the deeds untrue and send a request for the tax not paid plus surcharges etc. The benchmark value is the result of multiplying the catastral value by a different multiplier established by the authorities for each municipality, and is published each year in the B.O.J.A. (An official paper available to the public, solicitors and notaries on the Internet). For this year for example the benchmark for Mojacar is 1.2 times the catastral value.

*Transfer tax
can sometimes be
more than 8% of
your purchase
price.*



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In the good old property boom days this was not a problem, as the resulting benchmark was normally well below the real market value, which meant in practice that only people actually cheating the tax office in the first place got sent the letter.

The problem is that the benchmarks are now very often above the market value of the property. (I would say that in about 80 % of transactions in the Mojacar area).

This is extremely unfair, as in practice it means that if you buy a property for example for 150000 euros, you can receive a letter from the tax office saying that the benchmark is in fact 200000 euros and that you have to pay them 8% on the difference plus surcharges.

This leaves the purchaser with the choice of paying or fighting the tax office. (Which in most cases is not worth it due to the complexity, expense and doubtful outcome).

Before you purchase ask your solicitor to determine the benchmark value of the property you are purchasing so that at least you know what to expect.

If you purchase or inherit a property for under the benchmark, the tax authorities are entitled to claim the difference in tax for four years after the last day for payment of the tax. (Which is one month for a purchase and 6 months from death on an inheritance).

The above is a clear case of abuse by the administration, which they should address as soon as possible.

Michael Davies.
Abogado.

Member 1748 of Almeria Law Society.

Member 67228 of Madrid Law Society.

Ex-Honorary British Consul.