

Andalucia Inheritance tax Guideline for clients 2021.

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Inheritance tax Guideline for beneficiaries resident in Andalucia. (and possibly non residents inheriting in Andalucia)

(since the sentence of the European Court of Justice of 3rd of September of 2014 non residents who inherit assets in Andalucia if the estate and the deceased did not have a closer connexion to a different region of Spain).

In my opinion (and this could be disputed) the same exemptions should now be applicable to non E.U. residents on the basis of various Sentences of the Spanish Supreme Court . With the U.K. having left the E.U. I am sure there will be many beneficiaries exploring this possibility.

Why does this booklet only refer to Andalucía ?

Beneficiaries of Spanish estates (Spanish nationals and residents in Spain) pay a different level of inheritance tax depending on what region of Spain they live in as each regional government has created extra exemptions for those living in their region.

Since the sentence of the ECJ of 3rd of September of 2014 non residents of the European Union who inherit assets in Spain will be entitled to claim the exemptions of the regional government that offers the closest connection to the estate if this is in their



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benefit. (this is because the European Court of Justice considered that non residents were being discriminated).

When is inheritance tax due in Spain?

Spanish inheritance tax forms need to be presented always always if the heir is resident in Spain . If the heir is non resident in Spain he or she will only declare the assets situated in Spain at the date of death (the exception to this is life insurance payment made by a foreign life insurance company that operates and contracts in Spain , which also need to be declared in Spain).

In Spain tax is calculated and paid by each heir and not by the estate.

Where do you pay your tax ?

If you are a non resident beneficiary you pay to the "Agencia Tributaria", (in Madrid)while if you are a resident beneficiary you pay to the regional government (tesoreria general de la junta de Andalucia) . It is done by self

assessment .Get this wrong and you are looking at a problem of biblical proportion. Since the sentence we have a crazy situation where if you are a nonresident you have to pay the national tax office but using the exemption rates of exemption

Ask your solicitor to talk about benchmark values. If he puts on a strange face, change solicitors.

IF YOU ARE NON RESIDENTS, BUT RESIDENT IN THE E.U. MAKE SURE YOUR SOLICITOR APPLIES THE CRITERIUM OF THE EUROPEAN COURT OF JUSTICE. YOU ARE ENTITLED TO THE SAME EXEMPTIONS AS RESIDENTS .



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offered by the corresponding regional government)

What do you declare in Spain ?

Beneficiaries **resident of Spain** have to declare worldwide assets. In the old days people did not declare the assets outside Spain , but now if the deceased has filed a 720 form then.....

Beneficiaries **non-resident** of Spain only declare assets in Spain (plus life policies insuring the life of residents in Spain sold by foreign insurance companies that operate in Spain like for example the life policies sold by Iris Life /now SEB in Spain)

Tax payable:

The amount payable by each heir depends on a number of factors such as:

- Value of asset inherited
- Relationship between deceased and beneficiary
- Pre-existing wealth of the beneficiary

Calculation of inheritance tax is done in 4 steps.

1. We determine the value of what each heir is called to inherit. (Please read the article on benchmarks regarding valuation of property)If you are



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the spouse or child of the deceased and you lived in the same home as the deceased at least 2 years before the death you can reduce the value of the house or part of it by 95% with a maximum reduction of 122000 euro.

2. We establish the exemption which will depend on the family relationship with the deceased: Group I - Children & adopted children of less than 21 years of age [deduction EUR 15,956.87]

Group II - Children & adopted children of more than 21 years of age, spouse, parents, grandparents [deduction EUR15,956.87]

Group III – Brothers, sisters, aunts, uncles, nieces, nephews & step children (not adopted) [deduction EUR7,993.46]

Group IV– more distant relatives and strangers. (No deduction).

There are additional exemptions in cases of incapacity, under age children and family businesses.

This is where the exemptions in Andalucia are very generous in comparison to the national exemptions above.

Different parts of Spain have created extra exemptions for the residents in their jurisdictions. In Andalucia group I and II heirs (spouse and direct descendants) are entitled to pay no inheritance tax if what they receive is

Where the deceased and heir lived within Spain can make a big difference to Inheritance tax. Dying in Valencia is cheaper than dying in Andalucia.



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under 1.000.000 euro. Certain conditions regarding preexisting wealth apply.

3. We apply the sliding scale to what each heir receives:

Spanish inheritance tax rates:

Tax base	Tax	Marginal %
0	0	7.65
7,993.46	611.50	8.50
15,980.91	1,290.43	9.35 %
23,968.36	2,037.26	10.20%
31,955.81	2,851.98	11.05%
39,943.26	3,734.59	11.90%
47,930.72	4,685.10	12.75%
55,918.17	5,703.50	13.60%
63,095.62	6,789.79	14.45%
71,893.07	7,943.98	15.30%
79,880.52	9,166.06	16.15%
119,757.67	15,606.22	18.70%
159,634.83	23,063.25	21.25%
239,389.13	40,011.04	25.50%
398,777.54	80,655.08	29.75%
797,555.08	199,291.40	36.00%



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4. We apply a multiplier to the final amount which will depend on the relationship with the deceased.

Group I and II: Multiply the amount by 1.

Group III : Multiply the amount by 1,5882

Group IV: Multiply the amount by 2.

If the beneficiary has a very high preexisting wealth the multipliers can be higher.

Spanish law requires that an inheritance be declared and all taxes paid within 6 months of death. A six month extension can be requested if done so within five months of the death.

Surcharge & interest on late payment

Six months to
present
inheritance tax
forms.

We are Spanish inheritance experts. If you need help with probate or making a Spanish will contact us today for an appointment (at one of our offices or over zoom)

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Number of months late in making payment	Surcharge/Interest
0 to 3	5%
3 to 6	10%
6 to 12	15%
12 +	20% + statutory interest

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