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INHERITANCE TAX AND CAPITAL GAINS TAX FOR NON RESIDENTS OWNING PROPERTY IN SPAIN

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To quote or rather misquote, Michael Caine, not a lot people know that.....as a non resident owning property in Spain you are subject on death to inheritance tax and on sale of the property to capital gains tax, neither are a tax which we here at Spence Clarke like much, really, you make a clever investment and you're penalised, you die and your beneficiaries are penalised....ihtcgti but they are a fact, so please read on to find out more.

Inheritance Tax

Irrespective of tax residence or domicile, Spain taxes the beneficiaries of gifts or inheritances when the asset acquired is an interest in a Spanish property.

Rates vary enormously throughout Spain and one can suffer huge inheritance tax bills or none at all, this all depends upon the region of Spain where the property is located.

Until quite recently, non residents were subject to the State inheritance tax system. An EU ruling in 2014 considered aspects of this illegal and the law was subsequently changed. Non residents may now elect for the application of the State or Regional system, whichever results in lower taxes being payable.

In general terms the tax rates can range from 7.65% to 36.5%. If non related parties inherit the tax rates can increase to a staggering 87.6%.

There are allowances for direct family members, not huge but depending upon the number of beneficiaries, reductions can be significant. You won't be surprised to hear that no exemptions are in place for non related parties. Note, unmarried cohabitants are considered non related parties.

One of the most notable elements is that there is no general inter spouse exemption. So if one spouse dies the remaining spouse could be left with a tax bill to pay.

Capital Gains Tax

Spain charges tax on any profit that arises on the sale of Spanish property. The tax is calculated by taking the difference between the purchase price with that of the sale price and allowing for incidental sale and purchase taxes and other costs. The tax rate is currently 19%.

When the property is sold the purchaser has to withhold 3% of the price and pay this to the tax office. This represents a payment on account of any resulting capital gains tax. If a gain has been realised then a tax return is filed paying the difference or if the gain is less than the 3% then the balance is reclaimed. If no gain results, then the whole of the 3% is reclaimed.

As with a lot of Spanish tax legislation these taxes are subject to constant change, so to get a fully up to date analysis of your obligations, please contact: claudia@spenceclarke.com.